DOCUMENT RESUME

ED 158 215 CG 012 868

TITLE	Forcible Rape: A Manual for Sex Crime Investigators. Police Volume III.
INSTITUTION	Battelle Memorial Inst., Seattle, Wash. Law and Justice Study Center.
SPONS AGENCY	National Inst. of Law Enforcement and Criminal Justice (Dept. of Justice/LEAA), Washington, D.C.
PUB DATE	Mar 78
GRANT	75-NI-99-0015
NOTE	66p.; For related documents see CG 011 469, CG 012 763, CG 012 764, CG 012 869
AVAILABLE FROM	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402 (Stock number 027-000-00621-3)
EDRS PRICE	MF-$0.83 HC-$3.50 Plus Postage.
DESCRIPTORS	Court Litigation; *Crime; *Investigations; *Law Enforcement; Manuals; *Rape; Sexuality; *Violence
IDENTIFIERS	*Police Investigators; *Sex Crimes

ABSTRACT

To help police investigators develop skills that will improve the low conviction rate for rape cases, this manual stresses an overall investigative strategy based on establishment of each element of the crime of rape. Analysis of data from large and small police departments across the United States shows that fewer than 3% of the crimes reported as rape result in a conviction; many cases are not filed or are plea bargained to a lesser offense because of insufficient evidence. This manual focuses on a step-by-step development of evidence through interviews with the victim, physical and medical evidence of force, crime scene evidence, interviews with witnesses, and use of third party reports such as local rape crisis lines or victim service organizations. Establishing a suspect, confirming the identification of arrestees, and collecting corroborating evidence are discussed. Special attention is given to particular problems of rape investigation, such as the need for establishing lack of consent when the victim knows the assailant. In addition, crime scene evidence and medical evidence of particular value in proving force are recommended. (Author)

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Forcible Rape

A Manual for Sex Crime Investigators

Police Volume III

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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National Institute of Law Enforcement and Criminal Justice
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Washington, D.C. 20402
Stock Number: 027—000—00621—3

Forcible Rape

A Manual
for Sex Crime Investigators

Police Volume III

This project was supported by Grant Number 75-NI-99-0015 awarded to the Battelle Memorial Institute Law and Justice Study Center by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

March 1978

National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

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ABSTRACT

To help police investigators develop skills that will improve the low conviction rate for rape cases, this manual stresses an overall investigative strategy based on establishment of each element of the crime of rape.

Analysis of data from large and small police departments across the United States shows that fewer than 3 percent of the crimes reported as rape result in a conviction; many cases are not filed or are plea bargained to a lesser offense because of insufficient evidence. This manual focuses on a step-by-step development of evidence through interviews with the victim, physical and medical evidence of force, crime scene evidence, interviews with witnesses, and use of third party reports such as local rape crisis lines or victim service organizations. Establishing a suspect, confirming the identification of arrestees, and collecting corroborating evidence are discussed. Special attention is given to particular problems of rape investigation, such as the need for establishing lack of consent when the victim knows the assailant. In addition, crime scene evidence and medical evidence of particular value in proving force are recommended.

Specific procedures used to prosecute a rape case are similar to those used for other felonies. However, before a case can be presented to the prosecutor, it must be in especially good order due to the extreme sensitivity of both public opinion and law relating to this crime. In most jurisdictions, some type of pretrial hearing must be held. The decision to prosecute will depend, in large part, on the strength of the prior police investigation and development of the evidence. Because of the many emotional issues involved, rape investigation is highly complex and use of a careful, step-by-step approach and a filing checklist are recommended as investigative tools for these difficult cases.

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NOTE:

The complete results of this project are included in 11 research products. This volume represents the findings of one part of a comprehensive study of rape and the criminal justice system response. Additional research findings and recommendations are available in the following publications and reports. Copies may be purchased from the Government Printing Office.

Forcible Rape: A National Survey of the Response by Police (Police Volume I)
Forcible Rape: A Manual for Patrol Officers (Police Volume II)
Forcible Rape: Police Administrative and Policy Issues (Police Volume IV)
Forcible Rape: A National Survey of the Response by Prosecutors (Prosecutors' Volume I)
Forcible Rape: A Manual for Filing and Trial Prosecutors (Prosecutors' Volume II)
Forcible Rape: Prosecutor Administrative and Policy Issues (Prosecutors' Volume III)
Forcible Rape: An Analysis of the Legal Issues
Forcible Rape: Medical and Legal Information [for Victims]
Forcible Rape: Final Project Report
Forcible Rape: A Literature Review and Annotated Bibliography

ACKNOWLEDGMENTS

We would like to thank the following people for their valuable contributions to this report:

National Advisory Panel

Bruce R. Baker, Chief of Police;
Portland Police Department;
Portland, Oregon

Edwin C. Brown, Jr., Brown & Brown
Attorneys;
Washington, D.C.

D. Lynn Curtis, Research Associate;
Bureau of Social Science Research, Inc.;
Washington, D.C.

Margaret J. Gates, Co-Director;
Center for Women Policy Studies;
Washington, D.C.

Patrick Healy, Executive Director;
National District Attorneys Association;
Chicago, Illinois

Margaret Jordan, Johnson County
Prosecuting Attorney;
Olathe, Kansas

Lieutenant Mary Keefe, formerly Sex Crimes Analysis Unit, New York City Police Department; presently Training Specialist, University Research Corp.;
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We are grateful to the following agencies for their commitment and interest in this project:

Alameda County Office of
District Attorney;
Oakland, California

Jackson County Prosecuting
Attorney's Office;
Kansas City, Missouri

Johnson County Prosecuting Attorney's Office; Olathe, Kansas

King County Prosecuting Attorney's Office; Seattle, Washington

Marion County Prosecuting Attorney's Office; Indianapolis, Indiana

Multnomah County Prosecuting Attorney's Office; Portland, Oregon

Platte County Prosecuting Attorney's Office; Platte City, Missouri

Shelby County District Attorney's Office; Memphis, Tennessee

Travis County District Attorney's Office; Austin, Texas

United States Attorney's Office, Washington, D.C.

Wayne County Prosecuting Attorney's Office; Detroit, Michigan

Wyandotte County District Attorney's Office; Kansas City, Kansas

Austin Police Department, Austin, Texas

Austin Rape Crisis Center; Austin, Texas

Detroit Police Department; Detroit, Michigan

Detroit Rape Crisis Line; Detroit, Michigan

Detroit Rape Counseling Center, Detroit General Hospital; Detroit, Michigan

Kansas City Police Department; Kansas City, Missouri

Memphis Police Department; Memphis, Tennessee

Metropolitan Organization to Counter Sexual Assaults; Kansas City, Missouri

Metropolitan Police Department; Washington, D.C.

Multnomah County Victim Advocate Project; Portland, Oregon

New Orleans Police Department; New Orleans, Louisiana

Oakland Police Department; Oakland, California

Phoenix Police Department; Phoenix, Arizona

Seattle Police Department; Seattle, Washington

Seattle Rape Relief; Seattle, Washington

Sexual Assault Center, Harborview Hospital; Seattle, Washington

Sexual Assault Treatment Center, St. Luke's Hospital; Kansas City, Missouri

Among the many others who assisted us, we would like to especially thank:

Faith Fogarty, Literature Coordinator; Battelle; Seattle, Washington

Jay Lynn Fortney, Assistant District Attorney; Jackson County Prosecuting Attorney's Office; Kansas City, Missouri

Michael Fried, Wayne County Prosecuting Attorney's Office; Detroit, Michigan

Barbara Simons, Director; Detroit Rape Counseling Center; Detroit, Michigan

Sgt. Don Munstermann; Long Range Planning and Grants Unit; Kansas City Police Department; Kansas City, Missouri

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PREFACE

This manual is the result of a two-year research project funded by the Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice. During the first year of this research 208 law enforcement agencies and 150 prosecutor's offices of all sizes and from all parts of the country were surveyed regarding their procedures for handling rape cases. In addition, the criminal justice response to rape in the Seattle-King County (Washington) area was thoroughly examined. This effort included interviews with police department administrators; members of the department's sex crimes investigation unit; 75 officers assigned to patrol duty, a sample of prosecutors; judges, and defense attorneys experienced in trying rape cases; 69 reporting and 27 non-reporting rape victims; and an evaluation of all 308 rapes reported to the Seattle Police Department during 1974. In addition, to expand further the data base established during the first year of research, a sample of 1974 rape cases reported to the Phoenix and New Orleans Police Departments were also obtained for evaluation.

During the second year of this research, six additional cities were selected for further study, using the techniques developed in Seattle. Interviews with a total of 30 police administrators, 86 sex crimes unit detectives, 214 patrol officers, 20 deputy prosecutors, 15 prosecution policy-makers and 48 rape victims were completed in Austin, Detroit, Kansas City, Memphis, Oakland, and Washington, D.C. In addition, samples of the 1975 rape reports made to the Detroit, Michigan, and Kansas City, Missouri Police Departments were also obtained for study.

This manual is primarily intended for use by sex crimes investigators. Since the operating procedures of some police agencies require patrol officers to assume broad responsibilities in the handling of rape cases, those patrol personnel who conduct extensive preliminary investigations in rape cases may also find this document very helpful. All officers interested in obtaining more detailed information regarding the investigation, administration, or prosecution of rape cases, should also consult the appropriate publication listed above.

CHAPTER 1. INTRODUCTION

So many people see a rape victim that it becomes almost like a party. And a lot of the police are very voyeuristic about whether the woman secretly enjoyed the rape, how it felt, whether she likes sex a lot—asking insulting and unnecessary questions like that. The police need a great deal more specialization so that only a few people with special training will see the victim.[1]

Darlene Cole
Rape Victim and
Rape Crisis Center Founder

During the last few years the public, largely through the activities of women's groups, has been made acutely aware of the poor treatment often accorded rape victims by the criminal justice system. Because of the seriousness of rape and the amount of public concern generated, criminal justice administrators have been assigning an increasingly higher priority to the development of effective procedures for the handling of this offense.

In response to the high levels of concern expressed about the reform of procedures for processing rape cases, large sums of money have been expended on research in this area.[2] Studies have been conducted relating to the methods currently being used to handle rape cases, and to the effectiveness of those methods. These studies have produced various recommendations regarding the revision of existing procedures and the adoption of new ones.

One recommendation in particular has appeared in many of the research results that have been published to date. It has been repeatedly suggested that the role of the follow-up detective be expanded in the investigation of rape cases.[3] The Law Enforcement Assistance Administration Prescriptive Package, *Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies*, recommends the organization of specialized rape investigative units with round-the-clock response capabilities.[4] A recent publication of The Rand Corporation entitled *The Criminal Investigatory Process* concluded that specialized units have a significant potential to increase arrest rates for specific targeted crimes like rape. According to Rand, crimes like this can best be handled by "investigators who are well trained and experienced in examining crime scenes, interpreting physical evidence, and interrogating hostile suspects and fearful witnesses . . . ."[5]

What these studies have failed to recognize, however, is that for most criminal justice agencies a rape case is an unusual event. Even though an estimated total of 56,093 offenses were reported during 1975, forcible rape comprised but 5.5 percent of all violent crimes and only 0.50 percent of the total Index of Crime for the United States.[6] Although rape is a serious crime that commands a high investigative priority, for most law enforcement agencies it is also a low-volume crime.

It is to be expected, therefore, that most of the detectives called upon to investigate a rape case have limited experience in dealing with this type of crime. For some it is an everyday occurrence. The purpose of this manual is to provide some insight into the procedures and techniques that have been shown to be most successful in the handling of rape cases. It is hoped that these insights will be of use to the investigator with limited experience as well as the seasoned sex crimes detective.

The need for the dissemination of information of this type was demonstrated by the survey of police procedures conducted during the first year of this project. Police and sheriff's departments serving city, county, and university jurisdictions ranging in size from under 25,000 to over 250,000 inhabitants were surveyed by mail. Analysis of the data provided revealed certain major problems relating to the investigation of rape cases. For example, interpretation of data relating to case outcome showed that fewer than three percent of the crimes reported as rape ever resulted in a conviction for this offense. Data provided by prosecutors indicated that many cases were not filed or were plea bargained to lesser offenses because of insufficient evidence to prove the charge of rape. Data from police personnel substantiated the difficulties encountered with the development of strong cases. Additional information from police related to the problems associated with the identification of those who perpetrated this offense.

This manual is intended to assist police officers, specifically sex crimes investigators, to develop skills that will result in more convictions for the crime of rape.[7] To do so this manual discusses the value of an investigative strategy that stresses establishing the existence of each element of the crime of rape. It focuses on

achieving successful interactions with rape victims. Since much of the most valuable information in a rape investigation must be secured at the time of a victim's initial report, initial response procedures are thoroughly discussed. Information relating to the interview of victims, including those who are elderly and those who are very young, is presented in detail. To assist investigators in building stronger cases, this manual presents a discussion concerning the development of evidence to prove the crime of rape. Concluding chapters discuss the usefulness and establishment of productive relations with outside agencies including prosecutor's offices, health facilities, and victim's groups.

NOTES

[1] Nancy Gager and Cathleen Schurr, *Sexual Assault: Confronting Rape in America* (New York: Grosset and Dunlap, 1976), p. 67.

[2] Since 1970 the Law Enforcement Assistance Administration has funded 33 research studies dealing with forcible rape. The total cost of these projects as of June 1, 1976, has been $19,309,775. Of these projects the 11 dealing exclusively with rape cost $2 270,186. Source: "L.E.A.A. Non-Block Awards Relating to Rape Programs", NCJO-FILE (Grant Profile System), Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

[3] Approach Associates, Sexual Assault: *Improving the Institutional Response*, Vol. 1, "Summary and Recommendations" (Oakland, California: Approach Associates, 1975), p. 30.

[4] Lisa Brodyaga et al., *Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies* (Washington, D.C.: United States Government Printing Office, 1975), p. 24.

[5] Peter W. Greenwood and Joan Petersilia, *The Criminal Investigation Process*, Vol. 1 "Summary and Policy Implications" (Santa Monica, California: The Rand Corporation, 1975), p. x–xi.

[6] Federal Bureau of Investigation, *Uniform Crime Reports for the United States* (Washington, D.C.: United States Government Printing Office), p. 49.

[7] Also see: Charles E. O'Hara, *Fundamentals of Criminal Investigation* (2nd ed.; Springfield, N.Y.: Charles C. Thomas, 1970); Brodyaga et al., op. cit., Chapter III "Suggested Guidelines for Police," pp. 24–32.

CHAPTER 2. ORGANIZING THE RAPE INVESTIGATION

Rape is a crime that may be associated with many diverse situations.[1] In addition, the statutory definitions of this crime are substantially different from state to state. No single definition of rape can be applied to all the varying situations which could be properly reported as rape according to one statutory definition or another. In order to present a coherent discussion of the various techniques for the handling of rape cases, it is necessary to adopt certain conventions to govern the organization of this manual. First, it is necessary to adopt a standard definition of the crime of rape. Second, it is necessary to adopt a particular response model in order to discuss the division of labor between the officers whose responsibility it is to conduct an initial investigation and those whose responsibility it is to conduct a follow-up investigation. In addition, to facilitate the presentation of specific techniques which may be used to develop rape cases with a high degree of prosecutive merit, it is desirable to adopt a particular scheme for classifying cases.

2.1 The Definition of Rape: The Elements of the Crime

Although the statutes which define rape vary from state to state, these laws have all evolved from a common source, the English Common Law. The Common Law definition of rape is "carnal knowledge of a woman by force and without her consent." At one time, every state defined rape in this way. In 1952, the American Bar Association drafted a criminal code to serve as a standard for legislatures interested in revising their states criminal law. The rape statute included in this Model Penal Code eliminated the "against her will" element of the crime. This element was replaced with language requiring that a victim be compelled "to submit by force or threat . . . ." Although this Model Penal Code definition of rape was adopted in many states, other trends have also been observed. For example, legislatures have passed statutes which define rape in terms of criminal circumstances, sexual penetration accomplished through the use of a weapon, or sexual penetration of a victim who is under a specified age, unconscious, or mentally deficient. The main purpose of such statutes is to avoid altogether the issue of victim consent by focusing on the existence of criminal circumstances.

Some states have adopted statutes which eliminate the term "rape". Some of these laws use uncommon language like "sexual battery" or "criminal sexual conduct". A few statutes define rape as an offense which can be committed by, or against, a member of either sex. Most statutes contain sections specifying when the charge of rape may be brought based on the age or mental characteristics of the victim. In addition, some rape statutes contain provisions which prevent the publication of the victim's name, limit the admissibility of certain kinds of evidence, and either require or prohibit the use of certain jury instructions. However, in order to convict an individual of rape, judicial interpretations have consistantly required that the three basic elements of sexual penetration, identification of the perpetrator, and lack of victim consent be proven beyond a reasonable doubt.

Sexual penetration. Traditionally, penetration has been defined as entry, however slight, of a female's sexual organs by the genitals of a male. In some statutes this element may also include acts of oral or anal intercourse between members of either sex. Newer statutes may also include the penetration of a victim's genital, anal, or oral orifices by any body part or other object except for a bona fide medical purpose.

Identification of the perpetrator. The evidence required to prove the identification of a perpetrator in a rape case is generally the same as that required to prove the identification of the accused in any other offense defined by a state's criminal code. Obtaining such evidence may be particularly complicated in a rape case because some victims never see their attacker. In such cases, the same kinds of evidence of identification could be used as in a robbery or homicide in which there were no witnesses who could make a visual identification of the perpetrator.

Lack of consent. In most states it is still necessary to prove lack of consent on the part of the victim in order to obtain a conviction for rape. Some states allow this as an assumption if it can be proven that sexual penetration occurred under criminal circumstances. Nonetheless, proving sexual penetration occurred against the will of the victim is a basic element of the crime of rape.

In order to facilitate the general discussion of rape as a crime, this manual concentrates on the above three elements rather than any specific definition of rape. To apply the materials presented in this manual, it is necessary for readers to understand thoroughly the rape statute which applies in their own jurisdiction. Although such

statutes differ in content and construction, to obtain a conviction for the crime commonly thought of as rape it is usually necessary to establish the elements of sexual penetration, identity of the perpetrator, and lack of victim consent. This manual focuses on the development of an investigative framework which defines rape in terms of these three elements and emphasizes the development of sufficient evidence to prove each of them.

2.2 Response Models

There are several response models utilized to organize the procedures that law enforcement agencies use to handle rape reports. The response model used by a particular department is dictated by the number of rape reports it receives and the size of the jurisdiction the department serves. In departments which utilize the *traditional model,* the most readily available patrol officer is responsible for the completion of a preliminary investigation. The follow-up investigation is conducted by a detective from a different departmental division who is not necessarily experienced in rape cases. In the *patrol specialist model,* specific patrol officers are designated to conduct the preliminary investigation of rape cases. In some departments these are officers who have received special training of some type, in others they are exclusively females. In the *special unit model,* the initial investigation is conducted by the most readily available patrol officer, but the follow-up investigation is conducted by a detective who is a member of a special unit and specializes in rape cases.

The division of labor between individual patrol officers and follow-up investigators is determined by their department's response model. In order to distinguish between these two roles, this manual utilizes a modified special unit response model. In general, this model requires the most readily available patrol officer to conduct the preliminary investigation and a detective from a specialized unit to conduct the follow-up investigation. Further details of this model are presented in Chapter 4.

2.3 Classifying Rape Cases

Law enforcement agencies utilize various schemes to classify rape cases. The most common of these is the type and outcome classification specified by the Federal Bureau of Investigation for completion of Uniform Crime Reports. In a special handbook,[2] the FBI defines 29 classifications which encompass all crimes from criminal homicide to runaway. The handbook also defines the three outcome classifications which consist of "unfounded," "cleared by arrest," and "exceptionally cleared." [3] Most police agencies also use an internal classification scheme of some type. Categories like "active," "suspended," and "closed" are commonly used to monitor the progress of individual cases. In addition, cases can be assigned various designations to assist in their investigation. These informal classifications are generally used to organize cases into categories which promote their more efficient investigation.

Traditional investigative designations. One of the most common schemes for assigning an investigative designation to rape cases is based on a subjective evaluation of the prosecutive merit of the case. A so-called "good rape" is a case which involves a clear lack of consent on the part of the victim. Significant resistance, injuries to the victim, the presence of a weapon, breaking and entering, or an abduction off the street are all elements of a *good* rape case. A "bad rape" is a case in which the issue of consent is ambiguous. Cases involving parties who have had a previous relationship or who met each other hitchhiking, at a bar, tavern, or other social gathering are generally classified as *bad.* The designations "good" and "bad" have nothing to do with the seriousness of a case, but rather its prosecutive merit based on the element of consent.

Another scheme for assigning investigative designations to rape cases is based on an ostensibly objective determination. Specifically, cases are designated as "stranger" or "acquaintance" based on whether the perpetrator and the victim were known to each other prior to the time of the rape. Stranger rapes consist of attacks by unknown assailants which often involve abduction, breaking and entering, or possibly some form of impersonation on the part of the perpetrator. Acquaintance rapes involve any circumstances in which the victim and the perpetrator are even slightly known to each other through hitchhiking, a social encounter, a previous relationship, etc. Although this scheme uses an apparently objective criterion for assigning investigative designations, the element of consent continues to be an underlying issue. Stranger rapes are generally the only cases in which the circumstances of the case dictate a clear lack of consent on the part of the victim. In contrast, acquaintance rapes often involve circumstances in which lack of consent might be questionable.

There are other schemes for the assignment of investigative designations to rape cases. For example, some investigators differentiate between the various types of cases by means of labels that describe the circumstances of the report. Boyfriend-girlfriend, bar rape, hitchhike, breaking and entering, and alley rape are all labels describing circumstances which frequently accompany rape reports. Unlike the good/bad and the stranger/acquaintance schemes, this method focuses on the circumstances of the initial contact between the victim and her assailant.

All these schemes are potentially useful. All allow investigators to organize cases in a conceptual framework. However, each tends to minimize the impor-

tance of the elements of sexual penetration and identification of the perpetrator. In addition, they fail to stress the development of the strongest possible case. To emphasize case development, a classification scheme should more positively direct the activities of investigators by assisting them to conceptualize cases as a prosecutor would. Doing so maximizes the likelihood of obtaining sufficient evidence to prove each element of the crime beyond a reasonable doubt.

The legalistic model. The use of the legalistic model is an alternative means to assign investigative designations to criminal cases. This scheme categorizes cases according to what defense the accused perpetrator is apt to offer if apprehended. This model affords specific advantages in the investigation of all criminal offenses, but it provides a particular advantage for rape cases. The legalistic model facilitates the development of cases with substantially enhanced prosecutive merit. It also encourages investigators to secure evidence to prove each element of the crime. This has the effect of closing off each of the possible defenses the accused may offer. This is accomplished by helping investigators anticipate how the accused perpetrator will respond to the charge of rape. In addition, the legalistic model assists investigators with the organization of evidence-gathering activities by providing insight as to what evidence will have the greatest potential use at trial. Unlike traditional schemes for assigning investigative designations, the legalistic model focuses on promoting the successful prosecution of every type of case.

2.4 Defenses to the Charge of Rape

There are many possible legal defenses when an individual is accused of a criminal offense. For every crime there are particularly applicable defenses. Generally these are based on the specific elements of the crime, but they may also be based on the characteristics of the accused. In rape cases, defenses are generally based on lack of sexual penetration, insufficient identification of the accused, or victim consent. They may also be based on the psychological condition of the accused. The following are the four defenses most commonly offered by individuals accused of rape.

Penetration Defense. Individuals using this defense stipulate that they were with the victim at the time of the alleged offense, but they claim that there was no sexual penetration. If medical evidence of recent penetration is obtained, the accused will deny being the source of that evidence. (In this event, the accused is essentially switching to an identity defense.)

Technically speaking, sworn testimony from the victim regarding the existence of sexual penetration and the identity of the responsible individual is all that would be necessary to defeat this defense in most states. However, if the victim and the defendant present conflicting testimony on this issue, the point becomes a question of fact to be decided by the court or the jury. In such instances, the presentation of evidence, witnesses, or circumstances that would tend to corroborate the victim's testimony is indicated.

Identification defense. A person using this defense will simply deny that he is the individual who raped the victim. As indicated above, he may admit to being with the victim, possibly to knowing that she was sexually penetrated, but he will deny responsibility for that penetration. In other cases, the accused will completely deny being with the victim at the time of the crime. The accused may or may not admit knowing the victim, but he will completely deny that he was the individual who raped her.

To substantiate this defense, the accused may offer some type of alibi. More frequently the accused will simply rely on the victim's inability to make positive identification of the individual who raped her. This defense is neutralized by developing either physical or testimonial evidence linking the accused to the commission of the crime. Depending on the specifics of the defendant's statement, this may require either placing the accused at the scene of the crime, or establishing that the accused was the source of the medical evidence of penetration. When appropriate, this defense may also be neutralized by developing evidence which casts reasonable doubt on the accuracy of the alibi offered by the accused.

Consent defense. Individuals using this defense will acknowledge having been with the victim at the time of the alleged offense, and that the sexual activity in question actually occurred, but will claim that all penetration occurred with the consent of the victim. Of the defenses derived from the three basic elements of the crime, the consent defense is the most common and the most difficult to disprove. Even in cases involving strangers, the invention of a defense based on consent is still a possibility for the accused. Rather than presenting a defense based on mistaken identity, the accused can admit consummating sex acts with the victim, but deny the existence of force or coercion. If the victim sustained injuries during the assault, the accused will merely ascribe them to passion rather than physical abuse.

Variations of the consent defense are based on a prior sexual relationship with the victim, prior unchaste behavior by the victim, victim precipitation, or the existence of an unremunerated act of prostitution.

Rape reports involving individuals who have had a previous sexual relationship are not uncommon. In such instances a defense based on consent should always be expected. In some of these cases, proving lack of consent might be difficult. However, if the victim did not consent

to the sexual activity, and if she was overcome by force or coercion, the existence of a previous relationship with the accused is irrelevant.

Under certain circumstances, a defense based on a previous relationship could be valid. Some states exempt an individual from charges of rape brought by a lawful spouse. If the principles in a rape case are lawfully married at the time of the event in question, even though they may be separated, charges of rape may not be possible. In states exempting spouses from charges of rape and recognizing common-law marriage, an accused person could offer an affirmative defense based on these statutory provisions. In some newer statutes rape may be charged if one spouse has initiated proceedings for the dissolution of the marriage. In cases where both the circumstances of the incident, and the statutes so dictate, an evaluation must be made as to the appropriateness of a rape charge. However, even if rape cannot be charged, if a victim's earnest resistance was overcome by force or coercion, charging some other form of assault might be appropriate.

Occasionally an individual accused of rape will claim that knowledge of a woman's reputation for unchaste behavior caused him to believe the victim's protestations were not in earnest. Actually, however, a victim's previous sexual experience with others can never be a defense to rape. Yielding to overpowering or potential force is submission, not consent. The law recognizes that force or coercion can overcome the will of the victim irrespective of her sexual history.[4]

Another form of consent defense involves an accused person who claims his victim precipitated or otherwise invited sexual relations verbally and through gestures. These cases usually involve principals who initially came into contact with one another as a result of hitchhiking or a social situation at a tavern or at a party. In some instances, the victim will have voluntarily accompanied the accused to some other location. She may have freely engaged in some sort of preliminary sexual activity prior to the penetration consummated against her will. However, just as in any other rape case, the existence of force or coercion, not the activity of the victim prior to her assault, constitutes the crime.[5]

Many people believe that a record for prostitution effectively prevents a victim from bringing charges of rape. Some believe that merely accusing a woman of prostitution will nullify a charge of rape that she may make. It is true that a jury may be extremely reluctant to return a conviction for rape based on testimony from an individual accused or convicted of prostitution. However, even victims actively engaged in prostitution can be, and often are, raped.

All defenses based on the existence of the victim's consent can be neutralized by developing evidence supporting the allegation that the sexual penetration at issue occurred as a result of force or coercion. In some cases the question of consent is a legitimate issue. In a few it may be a valid defense. In most rape cases, a defense of consent is the easiest one to make and the most difficult one to disprove. Effectively closing off the use of a fallacious defense based on this element is the most difficult challenge facing a rape investigator.

Psychiatric defense. The use of this defense involves a plea of not guilty by reason of insanity. This defense is not used in a large number of cases. When it is used, it is generally offered by an individual accused of multiple offenses committed over a period of time. Sex crimes investigators should, therefore, expect this type of defense when working on cases involving so-called "pattern rapists." As these cases are investigated, all possible evidence to close off the effective use of a psychiatric defense should be obtained. Generally, this involves developing evidence which shows that the accused was acting rationally and/or with premeditation.

2.5 Predicting the Likely Defense

It is not possible to isolate any one factor that will unalterably be responsible for the choice of a defense by an individual accused of rape. However, the one factor most likely to effect the selection of a defense by the accused is the existence of a previous acquaintanceship with the victim. By simply determining whether the victim had ever known the accused prior to the time of her assault, an investigator can predict with great accuracy what defense will be offered if the alleged assailant is ultimately apprehended.

Unknown assailants. If the victim and her assailant are completely unknown to each other—if the victim believes that she has never even seen the accused prior to the assault—an identity defense should be anticipated. Penetration or consent defenses are possible, but highly unlikely. Unless the assault under investigation fits a pattern of similar crimes, a psychiatric defense is also unlikely.

In cases which involve unknown assailants, the most difficult task of the police is identifying the perpetrator. These cases generally involve breaking and entering, street attack, or possibly an abduction. Under such circumstances, the victim is usually able to offer very little if any information regarding the identity of the suspect. In some instances, the victim may not have even seen the attacker. In all instances involving unknown assailants, the police should emphasize avenues of investigation intended to establish the identity of an unknown individual. Although penetration must be established in these cases, consent is almost never an issue.

Known assailants. In cases involving principles who are known to each other, even slightly, a consent defense

should be predicted. In these cases there is also a chance that a penetration defense will be offered, but this possibility can be closed off through the use of medical evidence. A psychiatric defense in a case with a known assailant would be extremely unlikely.

In cases involving a known assailant, the most difficult task of the police will be to develop sufficient evidence that the victim not only did not consent, but that force or coercion were used to overcome her will. Establishing a clear lack of consent becomes more and more difficult with increasing degrees of personal relationship between the victim and the accused. In these cases, the main avenues of investigation to be followed are those which will corroborate the use of force to obtain submission. In cases involving a known assailant, the possibility of a penetration defense must be closed off through the use of medical evidence, but the possibility of an identification defense is nonexistent.

2.6 Summary

Rape is characterized by the diversity of the circumstances under which it is committed and by the difficulties associated with the investigation and prosecution of this crime. The statutes which define this offense differ considerably and require sex crimes investigators to be very familiar with the laws in their own jurisdictions. However, to obtain a conviction for rape it is always necessary to prove the three basic elements of sexual penetration, lack of victim consent, and identity of the perpetrator. By viewing rape in terms of these elements, it is possible to predict the defense a person accused of rape is most likely to present. This allows investigators to view cases as a prosecutor does, encourages the development of stronger cases, and increases the likelihood of obtaining rape convictions.

NOTES

[1] For many excellent examples of the diversity of rape taken from actual case reports see John M. Macdonald, *Rape: Offenders and Their Victims* (Springfield, Illinois: Charles C. Thomas, 1975). Kurt Weis and Sandra Borges in "Victimology and Rape: The Case of the Legitimate Victim," *Issues in Criminology*, 8, No. 2 (1973), 71-115, extensively discuss the variability of nonstranger rape events.

[2] Federal Bureau of Investigation, *Uniform Crime Reporting Handbook* (Washington, D.C.: U.S. Government Printing Office, 1974).

[3] Survey results have shown there is great disparity in how the FBI's classification procedures are implemented by individual law enforcement agencies. See: Battelle Law and Justice Study Center, "Classification Methods", *Forcible Rape: A National Survey of the Response of Police* (Washington, D.C.: U.S. Government Printing Office, 1977), pp. 15–18.

[4] See International Association of Chiefs of Police, "Rape," *Legal Points*, 6, No. 66 (1976).

[5] For further information on this topic see: Lynn A. Curtis, "Victim Precipitation and Violent Crime," *Social Problems*, 21 (1974), 598 ff.

CHAPTER 3. RAPE AND ITS VICTIMS

There are many myths about the crime of rape. Rape victims and offenders are also the subject of numerous stereotypes. Because most police officers deal with relatively few rape cases during their careers, their perceptions of this crime may be biased by these myths and stereotypes. In order to help avoid being influenced by them, investigators must be aware of society's attitudes towards rape, and also of the actual circumstances of rape cases. To improve the quality of their investigations, detectives must also be able to deal more effectively with rape victims. A thorough understanding of the emotional response experienced by most victims is very important to the ability of investigators to relate to women who have been raped.

3.1 Social Attitudes Regarding Rape

There can be no doubt that a brutal rape would be a terrifying and traumatic experience for any woman. Rape victims frequently sustain acute and potentially long-lasting emotional and physical injuries as a result of their assault.[1] Often these women are also victimized by social attitudes regarding rape.[2] Regrettably, the treatment given rape victims by some police personnel has reflected both social attitudes and negative personal perceptions regarding this crime. To help increase their knowledge of this offense and improve their treatment of victims, it is necessary for officers to be aware of the popular myths regarding rape.[3]

"Women want to be raped." One popular myth suggests that all women secretly want to be raped. Some people theorize that all women fantasize about being raped. They believe that only women who want to be raped are raped. People who accept this myth believe that since women subconsciously desire to be raped they do not resist the assault. These beliefs are reinforced by the fact that many rape victims are not injured and do not show marks of the attack. The fact is, one out of three rape victims is faced with a deadly weapon. Rape is a crime of violence, not sexual passion.

"Women cry 'rape'." Another myth suggests that a high percentage of rape reports are fabricated. This stereotype suggests that women cry "rape" for revenge, or to explain an unexpected pregnancy, venereal disease, or an illicit affair. When asked, most patrol officers indicated that they believe one half of all rape reports received by the police to be false. However, investigation showed that only 15 percent of the rape complaints made in 1975 were unfounded.[4] It is difficult to assess the number of rape reports that are falsified, but there is little evidence to prove that rape victims lie any more than victims of other crimes.[5]

"Women ask for it." There is also a popular conception that victims provoke their own assault. According to this stereotype women precipitate rape by wearing suggestive clothing or behaving improperly. Some people even associate the increased rape rate with new fashions and modes of dress. Contrary to these beliefs many rape victims report wearing bulky sweaters, blue jeans, and heavy coats at the time of their attack. Rather than behaving improperly, many women are attacked while asleep in their own beds, en route to or from work, or while actually on the job.[6]

"Rapists are maniacs." Some people envision all rapists as sex-crazed maniacs. These people believe that men are driven to rape as a result of physical or emotional abnormalities, or because they do not have any normal outlets for their sex drive. Actually, studies of convicted rapists have shown them to be very "normal" individuals. In fact, many of them were married or had other regular sexual partners at the time of their offenses.

"Men can't help themselves." Another common stereotype regarding rape characterizes it as a crime of sexual impulsiveness. According to this myth, rape reports are usually made by women who are unable to avoid the further advances of men they have purposely aroused. Information from studies of convicted rapists can also be used to show the fallacy of this belief. Rapists frequently have a plan which they use again and again to take advantage of women while they are vulnerable. Rather than responding to powerful impulses, many rapists arrange their crimes well in advance.[7]

3.2 The Circumstances of Rape

The fallacies of the myths regarding this offense can be further seen by means of an examination of rape reports. An analysis of the rapes reported to the authorities has provided many insights about this offense. A more complete understanding of circumstances surrounding rape reports can help police officers avoid many common misconceptions. Although there is considerable variation among rape reports, certain factors are common to many of these offenses.[8]

Age and ethnicity. Most rape victims are under the age of 21 years. Elderly women rarely report rape offenses. In fact, few women over the age of 30 are victimized. Offenders are usually presumed to be in their twenties

and approximately five years older than their victims. Most rape victims are white. However, minority women are raped more than would be predicted from their relative proportion in the general population.

Previous relationship. Most victims are raped by complete strangers.[9] In roughly a quarter of the reported cases, the offender and the victim are acquaintances or have had a limited social relationship. In comparatively few cases the accused is a close friend or relative of the victim.

Initial contact. The two most common places victims report first encountering their assailant are in their own homes or on the street. In many cases, victims report that force is used against them immediately. Quite surprisingly, hitchhiking is involved in less than 15 percent of the reported rapes.[10]

Use of force. Weapons are used in approximately one-half of all reported rapes. Knives or guns are most widely employed, but such items as bottles, rocks, and lighted cigarettes are also used as weapons. Some type of strongarm force is used against almost all victims. These victims often report being overpowered and held down, but choking and beating are not uncommon.

Resistance. Most women report offering some type of verbal or other form of passive resistance. Victims fight with their assailants in roughly one-half of all cases. Many victims who physically resist, report that their opposition had no apparent effect on their assailants; most of them report that their physical resistance caused the accused to become more violent and aggressive.

Injuries. About one-half of all women who report being raped sustain physical injuries of some type. In most cases, these injuries consist of minor cuts, scratches, and bruises. Few victims are seriously injured. Of the women who are injured, one-half report that their resistance was the cause of the injury. Almost all victims indicate they believe further injuries would have resulted had they provided additional resistance.

Additional crimes. About half of all women who are raped are also victims of additional offenses. Theft, fellatio, cunnilingus, anal intercourse, and multiple acts of vaginal intercourse are most commonly reported.

3.3 Rape Trauma Syndrome

Emotional responses displayed by rape victims can be varied and perplexing. Rape is frequently a severe crisis-inducing experience for the victim.[11] The psychological reactions that women experience when they are raped may be similar to the emotional reaction experienced by people in other types of crisis situations like automobile accidents, deaths in the family, or serious personal injury. The sequential pattern of emotional response displayed by rape victims immediately after their assault, and during the following weeks and months, has come to be known as the rape trauma syndrome.[12] Not all victims follow the identical pattern of response or experience symptoms with the same intensity. However, virtually all victims experience some of the following reactions.

Acute phase. For the first several days following their rape, the response of many victims is characterized by various extreme psychological reactions.[13] Frequently, victims enter a state of emotional shock. They cannot believe that rape could have happened to them, and they may be unable to comprehend what has occurred or what they should do. As a result, some victims act in what appears to be an illogical or irrational manner. For example, victims may not contact the police for hours or days, they may repeatedly bathe or wash their clothes, or they may display other unexpected behavioral responses.

All victims generally experience some degree of fear. The rape itself is most often perceived as a life-threatening event rather than a sexual intrusion. Most victims are roughly handled and threatened with death. In many instances, victims are assaulted with a deadly weapon. As a consequence, victims normally have a fear of injury, mutilation, or permanent bodily damage.

In addition to fear, victims are likely to express a variety of other reactions like anger, shame, guilt, helplessness, anxiety, revenge, powerlessness, humiliation, and embarrassment. It is common for victims to experience severe and abrupt mood changes immediately after the rape. For example, during an interview, a victim may unexpectedly display a surge of anger followed by a sudden expression of guilt or self-blame. Such mood changes can be as surprising and unexpected to the victim as they are to the interviewer.

Rather than expressing their emotions, some victims respond to a rape with a calm, composed demeanor or "controlled reaction."[14] These victims do not express strong emotions, especially in front of a stranger or authority figure like a police officer. Psychologically it is important to these victims to demonstrate that they can handle stress in a mature and adult manner. Unfortunately, this type of response occasionally causes others to doubt their account of the rape.

Adjustment phase. Following their intense emotional reaction to the rape, victims often give every appearance that they have learned to cope with their experience.[15] Very often they accomplish this by blocking out all thoughts regarding their rape and rearrange their daily life so that they are not reminded of it. This denial period is usually a temporary stage of outward adjustment for the victim. However, this process can interfere with the criminal justice proceedings. During this period some victims indicate they wish to withdraw their complaints, or they become uncooperative with investigators and prosecutors.

During this phase, many victims appear to cope successfully with the emotional trauma of being raped. This may, however, be a superficial adjustment. Some victims do not fully come to terms with their experience. For these victims, fundamental problems may remain which emerge at a later time.

Integration phase. The final stage of dealing with rape trauma occurs over a long period of time and requires the victim to fully integrate her experience into her life as a whole.[16] Because it so dramatically upsets the normal routines of a victim's life, a rape can produce a period of self-evaluation and new decisions. Many facets of the victim's life may be different after the rape. Some women find it necessary to change residences in an effort to achieve a feeling of safety. This is a particularly common behavior for women who were raped in their own homes. Other women spend a great deal of time, energy, and money to secure their present homes with new locks, bolts, or alarm systems.

Victims may perceive themselves differently following a rape because they feel stigmatized. Many victims find it difficult to return to their normal responsibilities at school or work. For some victims this means a decision to change schools or find a new job.

Family support can be crucial at this time. Unfortunately, family members can respond in ways that are not helpful to the victim. Victims describe husbands, boyfriends, or parents who doubt their account of rape. Consistently, victims report that their relationship with their husband or boyfriend is strained during the time immediately after the rape. Most victims severely limit their outside social activities for extended periods following their assault.

Criminal justice implications. The effects of rape trauma syndrome can have a great influence on a victim's interaction with the criminal justice system. There are many specific ways in which a victim's emotional defense mechanisms can interfere with the procedures that have been established to investigate and prosecute rape cases. By being aware of such potential difficulties, investigators can help victims resolve each crisis as it arises. Assisting victims in this way substantially increases the likelihood of completing a successful investigation and avoiding the possibility of having victims withdraw their complaints.[17]

Following their assault, some victims revert to a state of dependence or helplessness. Decision-making can become an ordeal. For some victims, it is easier and safer to seek direction and protection from friends and family members. These victims can become extremely susceptible to pressure, a tendency that can be important if, for example, a relative or a friend has a strong opinion that the victim should or should not prosecute the accused. Victims also become very sensitive to the attitudes and the behavior of the patrol officers, investigators, and prosecutors involved with their cases. Lack of support from criminal justice personnel is likely to cause victims to become more confused and uncooperative.

Victims often respond to the rape with a significant amount of guilt. Some victims exaggerate their own responsibility for not avoiding a potentially dangerous situation or for failing to resist successfully. These feelings are often reinforced when the victim is questioned about her inability to escape. The victim may need some help understanding that with hindsight, one is always able to make better judgments. With proper emotional support, the majority of victims can eventually come to understand that they probably did the best they could under the circumstances.

Many victims report significant disruptions in their daily routines. Some women, for example, are unable to sleep at night and are easily awakened by noises that would not normally bother them. Frequently, women also report loss of appetite. Others find that eating causes nausea, especially if they were forced to perform oral sex. The victim's ability to concentrate may be greatly diminished and her attention span temporarily shortened. In general, the victim's ability to perform normally may be severely altered, particularly when she is exposed to the further stresses of criminal justice procedures.

Nightmares are a common experience for women who have been raped. The dreams often consist of vivid pictures in which the victim relives the terror of the rape situation. The paralyzing feeling of doom is recreated with such reality that the victim often awakens to the same frightening powerlessness, loss of autonomy, and life-threatening fear of the rape itself. These dreams reinforce the victim's anxiety that she is no longer able to protect herself; they may lead her to request her case to be dropped.

Women who have been raped sometimes experience phobic reactions to circumstances or characteristics that they relate to their assault. An example might be a victim who was raped on a stairwell and who subsequently finds it very difficult to use any stairs. Police and prosecutors should be aware of such phobic reactions, particularly if the victim is asked to return to the scene of the crime or to view evidence from the rape.

Phobic reactions and recurring nightmares are natural methods for coping with severe trauma. Rape victims, however, may be worried that they are going crazy, that they can no longer cope, or that they will never be normal again. It is important that victims be able to talk to someone about these fears. Police and prosecutors can help by sharing their knowledge about the reactions that victims normally experience. Because criminal justice personnel are seen as authority figures, their actions have an especially important impact on victims. By demon-

strating sensitivity and concern, police officers can increase a victim's ability to recover quickly from the trauma of being raped and facilitate the investigation and prosecution of her case.

3.4 Summary

Most police officers deal with relatively few rape cases during their careers. As a result, social attitudes and myths regarding rape tend to have an undue effect on their perceptions of this offense. It is, therefore, important for officers to have an accurate view of the circumstances that actually surround most rapes. In addition, it is crucial for police to understand the behavioral pattern known as rape trauma syndrome, because the enormous emotional impact of rape can reduce the ability of victims to meet the demands of the criminal justice system.

NOTES

[1] Ann Wolbert Burgess and Lynda Lyttle Holmstrom, *Rape: Victims of Crisis* (Bowie, Maryland: Robert J. Brady Company, 1974); Malkah T. Notman and Carol C. Nadelson, "The Rape Victim: Psychodynamic Considerations," *American Journal of Psychiatry*, 133 (1976), 408–13.

[2] See Diana E. H. Russell, *The Politics of Rape: The Victim's Perspective* (New York: Stein and Day, 1975); Mary Meyer, "Rape: The Victim's Point of View," *Police Law Quarterly*, 3, No. 3 (1974), 38–44.

[3] Julia R. Schwendinger, Herman Schwendinger, "Rape Myths: In Legal, Theoretical, and Everyday Practice," *Crime and Social Justice: A Journal of Radical Criminology*, 1 (1974), 18–26.

[4] Federal Bureau of Investigation, *Uniform Crime Reports for the United States* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 24.

[5] Lynn A. Curtis, "Victim Precipitation and Violent Crime," *Social Problems*, 21 (1974), 601.

[6] Carroll M. Brodsky, "Rape at Work," *Sexual Assault: The Victim and the Rapist*, eds. Marcia J. Walker and Stanley L. Brodsky (Lexington, Massachusetts: Lexington Books, 1976), pp. 35–51.

[7] John M. Macdonald, M.D., *Rape: Offenders and Their Victims* (Springfield, Illinois: Charles C. Thomas, 1975), p. 141 ff.

[8] For information regarding cases other than those analyzed during this research see: Menachem Amir, *Patterns in Forcible Rape* (Chicago: The University of Chicago Press, 1972); Duncan Chappell et al., "Forcible Rape: A Comparative Study of Offenses Known to the Police in Boston and Los Angeles," *The Sociology of Sex*, ed. J. M. Henslin (New York: Appleton-Century-Crofts, 1971), pp. 169–90; Duncan Chappell and Susan Singer, "Rape in New York City: A Study of Material in the Police Files and Its Meaning," *Rape: A Critical Anthology*, eds. Duncan Chappell, Robley Geis, and Gilbert Geis (New York: Columbia University Press, in press).

[9] Various research projects have attempted to determine the proportion of reported and unreported rapes that are stranger-to-stranger crimes. The results of this research have ranged from a low of 56 percent stranger-to-stranger crimes to a high of 94 percent. For more specific information see: Battelle Law and Justice Study Center, *Forcible Rape: A Nationwide Survey of the Response by Police* (Washington, D.C.: U.S. Government Printing Office, 1977), p. 20; Battelle Law and Justice Study Center, *Appendices to "Research and Development of Model Procedures for Criminal Justice System Involvement with the Crime of Forcible Rape"* (Seattle, Washington: Battelle Human Affairs Research Centers, 1975), p. 65; Chappell et al., "Forcible Rape: A Comparative Study of Offenses Known to the Police in Boston and Los Angeles," op. cit., p. 187; Arthur Frederick Schiff, M.D., "Statistical Features of Rape," *Journal of Forensic Sciences*, 14, No. 1 (1969), 102–109; National Crime Panel, *Criminal Victimization Surveys in 13 American* Cities, (Washington, D.C.: U.S. Government Printing Office, 1975), p. 12, 30, 48, 68, 86, 104, 122, 142, 162, 182, 202, 220, 240; National Crime Panel, *Criminal Victimization Surveys in the Nation's Five Largest Cities* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 84.

[10] For a discussion of rape reports made to the Berkeley, California Police Department which involved victims who were hitchhiking see: Steve Nelson and Menachem Amir, "The Hitchhike Victim of Rape: A Research Report," *Victimology: A New Focus*, Vol. 5, "Exploiters and Exploited: The Dynamics of Victimization," Israel Drapkin and Emilio Viano, eds. (Lexington, Massachusetts: Lexington Books, 1975), p. 47–64.

[11] Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "Crisis and Counseling Requests of Rape Victims," *Nursing Research*, 23, No. 3 (1974), 196–202; Sharon L. McMombie, "Characteristics of Rape Victims Seen in Crisis Intervention, *Smith College Studies in Social Work*, 46 (1976), 137–58; Sandra Sutherland Fox and Donald J. Schere, "Crisis Intervention with Victims of Rape," Social Casework, 57, No. 4 (1976), 245–53; International Association of Chiefs of Police, *Training Key Number 209—Crisis Intervention* (Gaithersburg, Md.: International Association of Chiefs of Police, 1974).

[12] Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "Rape Trauma Syndrome." *American Journal of Psychiatry*, 131, No. 9 (September, 1974), 981–86.

[13] John Stratton, "Law Enforcement and Participation in Crisis Counseling for Rape Victims," *The Police Chief*, 43 (1976), 46–49.

[14] Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "The Rape Victim in the Emergency Ward," *American Journal of Nursing*, 73, No. 10 (October, 1973), 1744.

[15] Sandra Sutherland and Donald Schere, "Patterns of Response Among Victims of Rape," *American Journal of Orthopsychiatry*, 40 (1970), 507–08.

[16] Ibid., pp. 508–09.

[17] Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "Rape Victim Counseling: The Legal Process," *Journal of the National Association for Women Deans, Administrators, and Counselors* (Fall, 1974), pp. 24–31.

CHAPTER 4. THE INITIAL RESPONSE

All law enforcement agencies have established procedures to answer calls for service. The response models established in most cities call for personnel from separate departmental divisions to conduct the preliminary and follow-up investigations for all crimes except homicide. In most cases when a rape report is received, a patrol officer is dispatched to take an initial report, and a detective is later assigned to conduct the follow-up investigation. The purpose of this section is to describe the activities which are normally performed as part of the initial response.

4.1 Notification of Investigators

Virtually all police agencies dispatch patrol officers to the scene of every rape complaint to obtain an initial report. Follow-up investigators are normally brought into cases in one of three ways. In some departments, they are notified directly by the agency's communications section; in others, they are notified from the scene of the complaint by the patrol personnel dispatched to take the initial report; and, in many agencies, investigators are normally notified by receiving a written report through intra-departmental channels. For the purpose of this manual, it is assumed that investigators are notified from the scene of every rape complaint by the patrol officers dispatched to complete the initial report. It is further assumed that once the investigators have been notified, departmental procedures call for them to enter the case as soon as practical. Thus, according to the priority of the case and their current work demands, follow-up investigators might choose to (1) respond directly to the scene of the complaint, (2) meet the patrol officer and the victim at the hospital where she will be examined for evidence of the crime, or (3) wait to receive the report through channels.

4.2 Response Levels

The circumstances of rape reports govern whether they should receive an *emergency response*, a *high priority response*, or a *routine response*. The nature of some rape reports requires an emergency response from law enforcement authorities. In these cases, serious injuries to the victim, a fleeing suspect, or other exigent circumstances dictate the need for an emergency response. When emergency conditions are not present, it is necessary to assess the need for a high priority response. Although the early involvement of the follow-up investigator and the use of special crime scene search teams always improves the likelihood of the successful disposition of a case, it is not possible to provide a high priority response for every rape case. Therefore, it is important for police personnel, particularly investigators, to establish criteria to determine which cases require a high priority response. Although it would be optimal to assign all rape cases an equally high priority, sometimes it is necessary to differentiate among cases for the purpose of deciding the order in which they will be handled. Obviously no one factor can be used to assign a priority to a case; a combination of variables must be used.

4.3 Priority Criteria

Aggravated, stranger-to-stranger rapes that are promptly reported should receive top priority. As with other offenses, the greater the degree of aggravation, the higher the priority. The degree of seriousness associated with a particular case should be assigned on the basis of physical violence, the age of the victim, the use of a weapon, the simultaneous commission of additional crimes, the presence of accomplices, or any other circumstances that define aggravation. In assessing aggravation, the degree to which a particular case fits into a pattern or series of similar offenses should not be overlooked. In addition, the likelihood that the particular case will attract media and public attention should also be evaluated.

Stranger-to-stranger rapes should be given priority over offenses in which the victim and the assailant are well known to each other because unknown assailants must be identified through investigation. In most cases, known assailants can be named by the victim and often located through information which she is able to provide. Cases involving individuals who are known to each other should not be considered any less important than stranger-to-stranger rapes; this latter category of offenses should, however, be assigned a higher priority when such decisions must be made.

The promptness of the victim's report should be considered only in terms of the collection of evidence and the processing of crime scenes. For example, a prompt complaint permits the equally prompt collection of physical evidence. There is a much greater chance of locating witnesses who may be able to provide some type of useful information. In addition, having the opportunity to interview victims while their recollections of the event are still fresh is usually an advantage. It is also true that a prompt report strengthens cases that come to trial. How-

ever, a delay in reporting a rape should never be the sole cause to unfound a case or otherwise accord it less than a full investigative follow-up.

4.4 The Level of Response

The level of response a specific rape report receives will usually be assigned in one of three ways. In almost all cases, the communications personnel receiving the first notification regarding a rape have sufficient information to determine if an emergency response is indicated. Whether a case should receive high priority or routine handling is a decision that should be made by a sex crimes investigator contacted from the scene of the complaint by the patrol officers dispatched to handle the case. If sex crimes investigators are not on duty, first-line supervisors should be consulted regarding the response level assigned to specific rape reports unless it is obvious the case should receive an emergency or high priority response. If the special investigators are on duty, non-emergency, "walk-in" rape complainants should be referred directly to them, as should victims who have substantially delayed their report.

4.5 Response Personnel

Departmental procedures determine what personnel will be dispatched to the scene of a rape report. The priority of the case as well as the circumstances of the crime often determine who must be sent as part of the initial response to a rape report. The following personnel are likely to be involved in the initial response to rapes which are promptly reported.

Communications personnel. Police communications personnel are frequently the first representatives of the criminal justice system with whom victims come into contact when they phone to report being raped. Their role in the initial response includes more than merely obtaining the name and address of the complainant. If the crime was recently committed, communications personnel must instruct the victim not to destroy any evidence either by cleaning herself or the crime scene. In addition, if there is a chance to apprehend a fleeing suspect, the dispatcher has the pivotal role in the information gathering and distribution process. However, the most important service communications personnel can perform is to keep victims on the line and calm them until the first patrol unit arrives at the scene.

Patrol officers. At least two patrol officers should be dispatched to handle a rape report. Preferably, one of them should be female, and they should be deployed as two units, each with a single officer. One of the officers dispatched to the scene should assume exclusive responsibility for dealing with the victim. The other officer should be responsible to (1) locate and secure the crime scene, (2) coordinate the search for possible suspects who might still be in the vicinity, and (3) arrange for the completion of other tasks such as canvassing for witnesses. These patrol officers should continue to perform their assigned tasks until relieved by a supervisor or the detective in charge of the follow-up investigation.

Evidence technicians. In many departments, special personnel are available to process crime scenes. Whenever such personnel are available, they should be utilized in rape cases. In most instances, personnel specially trained in the collection and preservation of evidence are not only much better equipped to accomplish this task, but they are also more familiar with the procedures necessary to maintain an unbroken chain of custody for items to be used as evidence.

Supervisors. Supervisors have an important role in the initial response to a rape report. Especially if there is an opportunity to apprehend a fleeing suspect, a large number of police personnel must be coordinated. Even when there is no need to search for a suspect, a reported rape has a tendency to draw a large group of officers, a number of whom are merely curious. One of the most important tasks of supervisors during the initial response to a rape report is to insure that superfluous police personnel, including themselves, do not overrun either the crime scene or the location where the victim is being interviewed.

Investigators. The personnel who have the responsibility for the investigative follow-up of a rape report should respond to the scene of the complaint whenever possible. Even in the largest departments which receive hundreds of rape reports per year, a rape complaint is a relatively rare assignment for individual patrol officers. Patrol personnel who are required to handle perhaps one rape complaint every two years cannot be expected to be familiar with established procedures for taking reports, dealing with victims, collecting evidence, obtaining medical examinations, or otherwise conducting the preliminary investigation of a rape. Much of the most valuable evidence for a rape prosecution can only be obtained by a trained and experienced investigator. In addition, when a team of investigators responds to the scene of an initial rape report, one detective should assume primary responsibility for the case. This detective should then undertake all further dealings with the victim, and whenever possible, should be the person in whose name evidence is officially logged, prisoners are booked, and warrants are obtained. This procedure helps to reduce the number of witnesses necessary if the case is ever prosecuted.

4.6 Prioritizing Tasks

Once patrol personnel arrive at the scene of a reported rape, there are many activities which must be undertaken. To ensure that all of the appropriate tasks are

accomplished, it is important for police personnel to establish task priorities. It is not possible to establish in advance a precise formula to determine priorities for every situation. However, there are guidelines that can be applied to almost all situations.[1]

Apprehending a fleeing suspect. At times, police receive reports of rapes still in progress. This is a most unusual circumstance, but one that cannot be discounted. As the first units arrive on the scene, officers should be aware of the possibility of intercepting fleeing suspects before they have the opportunity to leave the immediate area of the report. Should officers discover that an attack is still in progress, obviously their first priority would be to stop it.

Render first aid. Once it has been established that the victim is out of physical danger, the first thing that should be determined is if the victim is in need of immediate medical treatment. In cases in which the victim appears to be uninjured, there is a tendency for police officers to fail to inquire if the victim is hurt. Especially in rape cases where serious injuries may be hidden by clothing, before posing any other questions the first officers on the scene should ask the victim if she is injured. Doing so helps the victim understand that the police are genuinely concerned about her health and welfare. Whatever action officers at the scene must take as a result of the victim's injuries should be recorded as part of the official report. In particular, any statements the victim might make concerning injuries, and any treatment rendered at the scene including minor first aid should be recorded.

Searching for possible suspects. Once it has been established that a victim is able and willing to talk, an attempt should be made to obtain further information which would be helpful in the attempt to apprehend a fleeing suspect. If the complainant is making an immediate report, some basic information about the crime will have already been obtained by communications personnel. Additional information the victim might be able to provide should be obtained from officers at the scene and either relayed directly to those in the field by radio broadcast, or conveyed by land line to communications personnel for broadcasting. If the suspect is well known to the victim and a consent defense is predicted, discretion should be exercised in broadcasting a pick-up request, especially if the whereabouts of the named suspect can be predicted and it is not likely that he will attempt to flee the jurisdiction.

Locate and secure crime scene. If the complainant is reporting from the actual scene of the crime, extreme care should be taken to avoid the contamination or destruction of evidence. If the complainant is reporting from a location other than the crime scene, police personnel should be deployed to locate and secure the actual crime scene. In addition, any vehicles which might have been involved in the crime should be located and secured. If locating the crime scene requires the assistance of the victim, as it might in a case involving a rape committed out-of-doors, her help should be sought following the completion of the basic interviewing.

Initial interview. The initial interview of the victim should be conducted by only one officer. The purpose of this interview should be to obtain the minimum information necessary to complete the initial investigation. No attempt should be made to obtain the sexual details of the assault. Beyond a short explanation by the victim regarding what crime was committed, detailed information pertaining to sexual acts is not necessary to, and should not be part of, the initial report. Information regarding what parts of the victim's body should be examined for biological evidence of penetration can be obtained directly by medical personnel as part of the protocol for the physical examination of rape victims. The time of the victim's last consensual sex acts, if any, should also be obtained by medical personnel. Any observations officers might make which are not a necessary part of the official report should be recorded as field notes, but not included in the body of the report.

Area canvass. It is very important to conduct an immediate canvass of all areas in which possible witnesses to the reported offense might be located. The area canvass is the most effective way to uncover relevant testimonial evidence regarding the incident under investigation. If the victim makes an immediate report, an area canvass should be made as soon as possible in order to locate witnesses before they depart the area. If the victim makes a delayed report, it is often helpful to conduct the area canvass on the same day of the week and at the same hour of the day as when the crime was committed.[2] In conducting an area canvass in a rape case, personnel should neither identify the victim by name nor indicate that the victim was raped. When preparing reports concerning the outcome of the canvass, personnel should make certain negative as well as positive results are recorded.

Crime scene processing. Whenever possible, known and available crime scenes should be processed by special evidence technicians. However, in some departments this task is the responsibility of either the patrol personnel assigned to handle the initial response or the detective assigned to handle the follow-up investigation. Regardless of who is undertaking this task, there are two precepts which should be followed. (1) Every attempt should be made to continue efforts to limit the number of police personnel with whom the victim must interact. Information regarding the areas and items that should be

processed for evidence can be obtained from the victim by the one individual who is conducting the initial interview, and conveyed to those who have the responsibility for crime scene processing. (2) The utmost effort should be devoted to maintaining the shortest possible chain of custody for all items of evidence which are collected. One means of doing this is to make one individual responsible for collecting, labeling, and logging all evidence regardless of who might locate the particular item.

Medical examination. Sexually assaulted victims should receive a medical examination for two purposes. First, the examination is an indispensible source of medical evidence of sexual penetration. Second, all sexually assaulted persons should have the benefit of receiving medical treatment for injuries, venereal disease, or possible pregnancy. Medication to prevent pregnancy can be administered successfully up to 72 hours following an assault.[3] In addition, medical information and physical evidence can sometimes be obtained from a victim long after the assault has taken place.[4] Therefore, even if days have elapsed since the time the victim was assaulted, she should still have the opportunity to receive medical attention and an examination for evidence of the attack.

The victim should be transported to the appropriate medical facility by an officer with whom she has had the opportunity to interact. Preferably the plain-clothes investigator in charge of the case should take the victim to the hospital. Alternatively, other plain-clothes personnel or the patrol officer to whom she gave her initial report should provide the transportation. In any case, requiring the victim to interact with additional police personnel should be avoided. With juvenile victims, officers should also ensure that an adult who can give permission for medical treatment accompanies the victim to the medical facility.

Prior to the examination, the officer transporting the victim for medical treatment should brief the physician concerning what kinds of evidence are likely to be available from the victim's person. This might include information about areas of her body that should be examined for evidence of penetration, physical injury, or other signs of force. If the officer transporting the victim for medical treatment is anyone other than the individual in charge of the investigation, medical personnel should be requested to question the victim regarding the parts of her body that should be examined for signs of penetration if this information cannot be obtained by a means other than further interview. In no case should any police personnel question the victim regarding her virginity or any other aspect of her previous sexual experience. Questions regarding her most recent consensual sexual contact, her last menstrual period, or whether she is pregnant should be posed by hospital personnel as part of her medical history.

4.7 Report Writing

The adequacy of the police work done by individual officers is frequently judged by the quality of their written reports. Such judgments are made not only by fellow officers, but also by superiors when considering personnel for promotion. In general, the quality of an investigation is equated with the quality of the reports written about it. Since outside individuals like prosecutors and defense attorneys will have access to them, investigators should take special care when preparing written reports.

Conciseness. Police reports should be concise, which does not mean that they need always be short. They should express much in a few words. It is important to avoid unneeded phrases, and to use numbered lists wherever possible.

Accuracy. Reports need to be both factual and accurate. Special care should be taken to ensure the exactness of numeric information like dates, phone numbers, social security numbers, etc. Business as well as residence addresses and phone numbers should be obtained. In addition, it is often helpful to obtain the name, address, and phone number of a close friend or relative of victims and important witnesses. These friends and relatives can frequently help to locate individuals who might change residences before a case comes to trial.

Description of police activity. The entire description of all police activity undertaken as part of the preliminary investigation should be collected by one officer into a single, unified report. This final version should be compiled from the separate reports independently written by each officer involved in the initial response. Although individual officers should write separate reports, assigning one officer the responsibility of combining all of the individual reports helps to avoid confusion about the completion of specific tasks. In the preparation of their individual reports, officers should take special care to record all their activities, even those that failed to produce positive results. This simple device can be a great time-saver for others working on the same case. It can also help close loopholes which might otherwise be exploited by the defense, particularly during cross-examination.

4.8 Summary

The initial response given a rape complaint is critical to the ultimate success of the case. Individual departments must develop procedures to govern the handling of rape reports by all line personnel. The many tasks that must be performed as a part of the initial response should be completed according to their priority and reported on by the officers who have preliminary responsibility for the case. In all, the thoroughness with which the preliminary investigation of a rape complaint is conducted has a major impact on the ultimate outcome of the case.

NOTES

[1] See Peter B. Bloch and Donald R. Weidman, *Managing Criminal Investigations* (Wahsington, D.C.: U.S. Government Printing Office, 1975), pp. 23 ff.

[2] This technique is known as "round-and-round the clock" surveillance.

[3] G. Richard Braen, M.D., *The Rape Examination* (North Chicago, Illinois: Abbott Laboratories, 1976), p. 10.

[4] Joseph C. Rupp, M.D., Ph.D., "Sperm Survival and Prostatic Acid Phosphatase Activity in Victims of Sexual Assault," *Journal of Forensic Sciences,* 14, No. 2 (April, 1969), 177–183.

CHAPTER 5. INTERVIEWING

As with most other cases, investigations of rape offenses require interviews with victims, witnesses, and suspects. Yet the information which must be obtained from these individuals is uniquely different in rape cases. Questions about sexual penetration can be most embarrassing for the interviewer and the victim alike. Frequently, the issue of consent is reduced to the word of one individual against that of another. Interviewing victims who have been both sexually abused and physically brutalized is a demanding task for even the most experienced sex crimes investigator. The purpose of this chapter is to present some of the techniques that have been used successfully by police officers highly experienced in interviewing rape victims, witnesses, and suspects.

5.1 Interviewing Victims

The interview of a rape victim requires an extremely high level of sensitivity. Probing the intimate sexual details of a terrifying and traumatic experience is a task requiring skill, tact, and discretion.[1] Interviewing a victim who has been both physically and psychologically assaulted is a most demanding task even under the best of circumstances. In rape cases, interviews must often take place under circumstances which are far from ideal.

To complicate matters further, the interviewee is not only a victim of a crime, but also the victim of society's attitudes regarding rape.[2] Both these attitudes regarding the crime of rape and her own personal feelings might cause the victim to be in severe emotional distress at the time of her interview. Almost all victims will be experiencing high levels of fear and complex emotional reactions like those described in Chapter 3. Some victims believe circumstances might have existed which either contributed to their victimization or might otherwise reflect negatively upon them. Some victims may wish to either repress or conceal these facts. Thus, interviewers must always be aware of the complexity of their interactions with rape victims.

Investigative goals. The investigative goal of an interview with a rape victim is to determine (1) whether a crime has been committed, and (2) how the offense occurred. The statements made by the victim during her interview with the officer will serve as the basis to establish the existence of each statutory element of the crime. In addition, these statements will direct the course of the entire investigation.

Initial impressions. In preparing to interview a rape victim most investigators will, quite naturally, develop a first impression of the case. This impression is the product of the investigator's personal attitudes, professional experience, and general reaction to the specific victim to be interviewed. The circumstances of rape are widely varied. Most women are the innocent victims of random acts of violence. Some are the victims of their own lack of foresight. No matter what circumstances resulted in the victimization of the woman being interviewed, the investigator must attempt to avoid prejudging the case. Objectivity and understanding must be used to overcome any biases or first impressions. The investigator must neither blindly accept the victim's statements, nor callously reject them. Investigators must be aware of the natural tendency to develop first impressions about cases and to recognize the potential effect of these biases on their own investigative objectivity. If for any reason it becomes obvious an investigator is experiencing difficulties establishing rapport with a victim, a change of interviewer should immediately take place.

Physical comfort. Investigators generally realize that the emotional impact of rape may make it very difficult for a victim to talk about her experience. However, many officers do not realize that *physical* problems may also make it impossible for a woman to be interviewed. For example, a victim may have been beaten or otherwise injured. These injuries might make it extremely difficult for her to sit comfortably. She might be taking medication for pain which has an effect on her ability to think clearly. Frequently rape victims are given drugs to prevent pregnancy which sometimes produce severe nausea. Or a victim may simply be suffering from lack of rest because she is suffering from rape-induced insomnia, or possibly because she has not had the opportunity to sleep since reporting her assault.

If a victim is interviewed immediately following her assault, she may be uncomfortable because of physical pain. If she was raped out-of-doors, she may be physically dirty. She may have been sodomized or urinated upon. Under such conditions, it is easy to understand that a victim's highest priority would be to wash and change clothes. In instances such as these, questioning should be held to an absolute minimum until the victim's personal needs have been met.

Interview setting. It is sometimes necessary to interview rape victims in settings that are far from ideal. In many departments even the best available setting leaves much to be desired. At times victims must be interviewed at medical facilities or in their homes. In many

instances it is not possible to control the physical characteristics of the interview setting. Insomuch as possible, however, the location should be an appropriate one.

The privacy of the interview setting should receive top priority. The setting should be visually private as well as reasonably soundproof. The victim should know that others will not be able to see or hear her. Rape victims frequently cry during interviews; maximizing their privacy will minimize their further embarrassment. The actual interview room should be comfortable. Every attempt should be made to avoid the institutional image typified by straight-backed chairs and bare walls. Ringing telephones and monitors carrying police broadcasts should be excluded. Interruptions should be strictly avoided.

Observers. If department regulations so require, the interview should be chaperoned. Even if this is not necessary as a precaution, the presence of another woman may help the victim to feel more comfortable. However, it is advised that the third party be a policewoman, a nurse, social worker, or victim advocate. Having friends or relatives of the victim present during the actual interview is not acceptable because these individuals may inhibit the victim's willingness to speak freely. Investigators working in teams often conduct joint interviews. The advantage of this procedure is that both investigators have a role in the interview. The disadvantage is that the procedure tends to make victims feel more as if they are being interrogated than interviewed. Additional questions that arise following the preparation of the victim's written statement can always be posed to her later. On balance, it is doubtful that the increased amount of information derived from joint interviews offsets the potential negative effect on the victim and the added expense caused by the duplication of labor.

Introductory remarks. To many rape victims the officer conducting the interview represents both society and a criminal justice system that has traditionally been skeptical of rape victims. As such, the interviewer may pose a significant threat to the victim. The introductory remarks made by the officer who conducts the interview will determine the course of the entire process. The interviewer should explain to the victim that it is the goal of the police to apprehend and prosecute her assailant through the use of the information she is able to provide. By conveying both their sympathy and professional interest, officers can assist the victims to more freely discuss their assaults.

General description. Following their introductory remarks, officers should allow victims to discuss whatever they please. A general question regarding her emotional condition since being assaulted might help the victim begin a discussion. The purpose of this preliminary discussion is to allow victims to release any tensions or pent-up feelings. Once the process has been initiated, the officer should ask the victim to describe in general how she was raped. She should be allowed to provide this description in her own words without interruption.

Follow-up questioning. While the victim is providing the general description of how she was raped, the interviewer should take notes. While doing so the investigator should be aware of both what the victim has said and what she has not said. When the victim has finished describing the rape, the interviewer should begin investigative questioning. In posing follow-up questions to the victim the investigator should avoid placing the victim in a position which requires her to justify either her statement or her actions. The interviewer can accomplish this by refraining from questions asking "why." Instead, the investigator should pose questions in descriptive terms. The extensive use of questions regarding the perpetrator's actions, rather than her own, will help the victim fully relate the facts of her assault without feeling she is being forced to defend herself.

Sexual penetration. The interviewer must determine that the element of sexual penetration exists. Statutes dictate the specific requirements of this element. Most states require penetration by the assailant's penis. In other states, sexual penetration of the victim with some other object will also fulfill the requirements of this element. In any case, a specific description satisfying the statutory requirements of sexual penetration must be included in the victim's statement.

Identification of the perpetrator. To complete prosecution of the accused, the defendant will have to be identified beyond a reasonable doubt. This can either be through direct visual identification or by indirect identification through the use of physical evidence. During the interview, the investigator should establish the degree to which the victim is able to provide a direct, visual identification of her assailant. In addition, if there is any known physical evidence linking an unknown defendant to the commission of the crime, these items should be specified by the victim as being appropriate.

Lack of consent. Sexual penetration must be accomplished without the consent of the victim, and consummated through the use of force or coercion. The amount of force required depends upon the specific circumstances. If the victim was drugged or unconscious, lack of her consent without force or coercion would be sufficient. However, the exact details of the victim's lack of consent should be specified in her formal statement. Any weapons, force, or threats used by the perpetrator should be thoroughly documented. In addition, the victim should clearly describe any resistance she provided, including attempts to escape or dissuade the accused from assaulting her. The victim should also state what

injuries she sustained and what damage may have been done to her clothing or other property.

Previous acquaintance. As a result of follow-up questioning regarding the element of identity, the interviewer will know the degree to which the victim is able to identify her assailant. However, it is also necessary to know the degree to which the victim and her assailant may have been previously acquainted. Despite the fact that most reported rapes are stranger-to-stranger crimes, the majority of attacks are premeditated. In many cases the victim has known or seen the accused prior to the assault. The circumstances of any previous association should be ascertained during the interview. If the victim and the accused are well known to each other, it is also necessary to know if they have ever had consensual sexual relations. The existence of a previous sexual relationship does not necessarily alter the intent of the victim with respect to her lack of consent to engage in sexual activity at the time of the assault. However, knowledge of a prior sexual relationship will assist the investigator in evaluating the victim's complaint and predicting the use of the previous relationship in the defense offered by the accused.

Sexual history. Victims should never be interviewed regarding the general aspects of their sexual history about which they could not be lawfully cross-examined. Although it is necessary to know if they have ever had a previous sexual relationship with the accused, questions regarding previous sexual experiences, pregnancies, venereal disease, and their most recent consensual intercourse should be asked by medical, not police, personnel. If medical personnel fail to obtain sufficient information to assess the value of medical tests for sexual penetration, it is necessary for the investigator to discuss this matter with the victim. However, prior to being asked any such questions, victims should be told exactly why the information is needed.

Initial contact. One purpose of the follow-up interview should be to obtain full information regarding the circumstances of the initial contact between the victim and the accused on the occasion of the assault. Obtaining this information is necessary to help predict the defense the perpetrator is likely to offer. It is also of great potential value in establishing lack of consent. In addition, careful interviewing regarding the location of the initial contact and who was present besides the victim and the accused can help discover witnesses who might be able to identify an unknown assailant.

Apprehension information. One of the most important functions of the follow-up interview with a victim is the development of information which will assist in the apprehension of the accused. If the victim does know her assailant, she should be asked to provide all relevant information regarding his possible whereabouts, habits, and associates. If the accused is unknown to the victim, any recollections she may have which might lead to his identification should be obtained. In addition, it should be determined whether anyone else was present prior to or during the assault. If so, complete information about these parties should be obtained. Any vehicles belonging to the accused or his associates should be thoroughly described. Witnesses who may have seen the accused or his vehicle should also be identified. In general, every attempt should be made to gather information which might lead to the identification of possible suspects.

Sexual details. Obtaining a description of the intimate details of the assault is necessary to establish the element of sexual penetration. It may also help to corroborate lack of victim consent. In some cases, this description is of potential use in developing *modus operandi* information that might link different assaults in a pattern and possibly lead to the identification of the suspect. While it is necessary to use the description of the sexual details of an assault to establish the element of penetration, an exact description of sexual acts seldom contributes to the identification of a suspect. This is because few, if any, police agencies maintain adequate *modus operandi* records. Rather than attempting to obtain an excessively detailed description of the sexual aspects of the crime, the investigator should concentrate on developing other types of information that will lead more directly to the identification of possible suspects.

Discrepancies. It is possible that a victim's general description of her assault will contain some discrepancies. These discrepancies may be the result of the woman's emotional response to her assault. In any case, they should be tactfully pointed out to the victim. This can be achieved by asking the victim to repeat the portion of her account which is inconsistent. She should not, however, be asked to recapitulate her entire story. If there is a question regarding a particular part of the victim's account, that fact should be candidly stated. The tactic of trying to trap the victim should never be used. If necessary, the investigator should repeat the parts of the victim's statement that are not clear and ask the victim to make her meaning more thoroughly understood. Throughout the interview, the investigator should help the victim express the facts of what happened rather than require her to justify any of her behavior.

Discrepancies in the victim's account may also be in the form of unexpected behavioral responses displayed at the time of her assault, the initial report, or possibly during a subsequent interview. These behaviors take many different forms. A victim might describe something she did at the time of her assault that would not be consistent with what might be expected from a victim in a rape situation. For example, a victim may have bathed after being asked not to do so, or she may have returned

to the crime scene to retrieve some seemingly unimportant article instead of making an escape. A victim may appear to be more worried about property damage done by the accused than interested in talking to officers about being raped. Victims, particularly adolescents, may giggle or otherwise appear not to be taking their assault seriously. Investigators should understand that many people under stress frequently exhibit such behavior.

Concluding the interview. As the follow-up questioning draws to a close, the investigator should conclude the interview by asking the victim if she is satisfied with the contents of her statement. It is sometimes helpful to summarize key parts of the statement asking the victim if each part is "O.K. the way it is?" If the victim is not satisfied with portions of her statement, eliciting conversation regarding these items through the use of (1) open-ended questions, (2) oral repetition of direct quotes from her statement, and (3) long pauses will assist the victim to provide an account more to her own satisfaction.

Referrals. Following the conclusion of the interview, the investigator should provide the victim with referrals to obtain assistance from appropriate sources. Rape victims frequently suffer emotional disturbances that may arise at various points following their assault. Even victims who initially refuse emotional help sometimes decide to accept it at a later time. The investigator should explore the possibility of providing the victim with a referral to a (1) mental health center, (2) victim assistance group, (3) clergyman, (4) social welfare agency, (5) public health clinic, or (6) other appropriate source.

5.2 Elderly Rape Victims

Comparatively few older women ever report being the victim of a rape or an attempted rape. Most sex crimes investigators will seldom have occasion to handle a case involving an elderly victim. However, rape complaints from women in their 90's have been received.[3] Frequently, having an elderly victim further complicates the investigation of a rape case. Merely trying to ascertain the sexual details of an assault from an older victim can present major problems. The emotional impact of the rape may be more pronounced as victims advance into old age. Following their victimization, these women sometimes develop an incapacitating sense of fear. Frequently these victims have trouble remembering significant aspects of their attack. Failing sensory acuity makes the identification of possible suspects particularly difficult for them. Even such things as enhanced interest by the news media can be a serious problem when an elderly woman reports being raped. In many ways, the problems associated with a rape case involving especially old victims are analogous to those encountered in cases involving especially young victims.

There are few solutions to the special problems that arise when an elderly woman is raped. An investigator's basic strategy should be to expect more than the usual number of problems associated with a rape case and prepare to handle each difficulty as it arises. Investigators should be prepared to alter their vocabulary when interviewing elderly victims. They should realize that the availability of the victim may be limited due to hospitalization for injuries. Investigators should expect a greater need for crisis intervention techniques. Special referrals for emotional care may be necessary. The victim's physical infirmities may require investigators to rely much more heavily on means of suspect identification other than the complainant's visual recognition. In general, when called upon to handle a rape of an elderly victim, investigators should recognize the added complexity of these cases and proceed accordingly.

5.3 Adolescent Victims

A great number of victims who report being raped are adolescents. In many jurisdictions, over half of all rape victims are under the age of 20. The interview of a juvenile victim should be conducted in much the same way as the interview of an adult. However, investigators should be aware of certain additional issues when interviewing the rape victim who is an adolescent.

Level of understanding. Especially with young teenagers, it is important to establish a victim's level of understanding of sexual matters. Older teenagers from conservative backgrounds may also be surprisingly uninformed. Most teenagers do not have extensive medical or anatomical vocabularies. Therefore it is necessary to determine not only the level of the victim's understanding of sexual matters, but also the degree to which the victim understands the technical terms which may be used during an interview. However, investigators should not be surprised to discover that individual victims have a considerable knowledge of the appropriate vocabulary and no small amount of familiarity with the subject of sex.

Medical information. A good medical report is frequently a particularly valuable source of information for investigators dealing with a juvenile who reports a rape. If medical evidence indicates the victim was virginal at the time of the assault, the investigator should be aware that she may not have a good understanding of questions relating to sexual matters. If medical evidence indicates that the victim had been sexually initiated prior to the time of her assault, and if the accused is a family member, the victim should be interviewed about the possibility of previous incestuous abuse.

Unusual circumstances. Experienced sex crimes detectives have indicated that rape reports from juvenile victims sometimes involve remarkably unusual circumstances. These personnel advise that when handling

a rape case involving events that are especially out of the ordinary, the victim should be interviewed with particular care. While any rape report involving especially unusual circumstances should arouse the curiosity of investigators, experienced detectives recommend close questioning of juvenile victims who may be in need of an alibi for improper behavior. Experienced detectives further advise that stories involving abductions which are either too elaborate or too vague often signal the need for added caution when evaluating rape complaints made by adolescents.

While special attention is advised when interviewing teenaged rape victims, investigators should also be aware of the possible existence of a generation gap between themselves and the interviewee. Without their realizing it, the attitudes of investigators sometimes cloud their objectivity. When interviewing a juvenile victim, investigators should be especially conscious of this possibility. They should realize that adolescents can be naively involved in situations that are somewhat unbelievable when viewed from an adult perspective. Regrettably, the inexperience of teenagers sometimes blinds them to the potential dangers of certain situations. When evaluating a juvenile's story, investigators should be careful but not unreasonably skeptical.

Special problems. There are certain special problems involved with the investigation of rape cases with adolescent victims. Some of these difficulties relate to such things as obtaining permission for a medical examination from parents whom victims do not want notified. Another difficulty which is sometimes encountered relates to victims who wish to withhold certain information pertaining to their assault. Such information may involve activities about which they do not wish their parents, or possibly the police, to become aware. Under-aged drinking and marijuana use are typical examples of these activities. When special difficulties involving parents are encountered, investigators should help adolescents deal with both the problem and the parents. When the difficulties involve what could be police matters, investigators should explain to the adolescent that their function is to apprehend and prosecute the accused rapist, not the victim.

5.4 Child Victims

A significant number of pre-adolescent and young children are reported to be the victims of sexual assaults. Most sex crimes investigators will be called upon with some regularity to interview these young victims. Interviewing a child who has been the victim of a sexual assault is usually a most difficult task. Quite naturally, most police officers feel an increased degree of disgust when dealing with a case involving an especially young rape victim. Some officers quite frankly prefer not to deal with such cases. Officers who genuinely believe that their personal attitudes will interfere with their objective investigation of a rape involving a child victim should request to be taken off the case.

In addition to difficulties which might arise as a result of personal feelings regarding such cases, the extreme youth of the victim is a direct cause of many problems. Insufficient vocabulary and lack of understanding of sexual matters are but two of the most obvious difficulties which are likely to be encountered. If the accused is a loved-one or family member, the child may be ambivalent about getting the perpetrator "into trouble". The child may also fear punishment or retaliation.

Contrary to the beliefs of some people, an active imagination is rarely the source of a sexual assault complaint from a child. The facts of the incident under investigation may be blurred by psychological defense mechanisms, but few young children have sufficient knowledge about sexual matters to invent an explicit description of a sexual assault.

Interviewing young rape victims can present many problems. The younger the victim, the more difficult the task. Many valuable perspectives regarding the interview of child and other young victims of rape have been obtained by surveying experienced sex crimes detectives. The following is a digest of the information received from these officers.[4]

Preparing the interview. Prior to interviewing a young rape victim, sex crimes investigators should make some initial preparations. Frequently the police learn of rape cases involving a child from indirect sources like family members, teachers, medical personnel or social workers. As soon as the police learn of the alleged assault of a child, measures should be taken to ensure that a description of the event is not repeated in front of the child by the adults involved in the case. Children's recollections of the event should not be influenced by having the story of the assault told and retold in their presence.

The experienced detectives who were interviewed regarding this topic made many specific suggestions regarding the actual interview of child rape victims. Most of these officers agreed that parents should be excluded from the interview, presumably to avoid inhibiting the child. However, this was not a unanimous opinion. In some instances, the presence of parents might be necessary to help calm the child. The suggestion was also made that a child should be interviewed twice, once privately, and once in the presence of parents. In any case, the goal of investigators should be to work with parents, not against them. An adversary situation with parents should be avoided whenever possible. If parents are interfering with interviewing, giving them a task to perform frequently helps to divert them.

Experienced detectives also suggested that in most

cases only one investigator should interview a child. When possible, the investigator should sit close to, and at the eye level of, the child. During the interview, touching the child occasionally sometimes helps to provide further reassurance. Investigators should be prepared to use much patience and sensitivity when interviewing children. If possible, a determination should be made as to whether the child would prefer to talk to a female investigator. A few of the experienced detectives surveyed recommended using women to interview child victims as a standard practice.

Child development. Before beginning the interview, investigators should prepare themselves to talk at the child's level. The age, maturity, and educational level of the victim should all be considered in planning the words and expressions that will be used during the interview. Officers should consider the development of the child in terms of the demands that are to be made. For example, young children may not be able to provide accurate information about the hour of an assault, but they may be able to remember what television program was on at the time. Although the investigator may prefer the child to describe the assault, or series of assaults, in chronological order, young victims may not be able to do so. Attention spans of children vary, but they are always limited. Interviewers should stick to the most important issues and avoid tiring children with questions pertaining to minor details. When they begin to answer most questions with "I don't know" or "I can't remember," investigators should realize children are no longer interested in continuing the interview. In addition, officers interviewing young children should avoid being too indirect. Failing to ask concrete questions confuses children and further shortens their attention span.

Beginning the interview. The first goal to be accomplished during the actual interview is the establishment of rapport with the child. Discussing one's own children, relatives, neighbors, etc., who are the same age as the interviewee sometimes helps to achieve this. Very early in the interview children should be assured that *they* have done nothing wrong. They should be made to understand that *they* are not in any kind of "trouble." Once the child thoroughly understands this, the investigator should turn to a discussion of general topics. An attempt should be made to have the child view the detective as a friend rather than a police officer. Good rapport can usually be established by discussing the child's friends, school, pets, favorite T.V. programs, brothers and sisters, ambitions, etc.

Substantive interviewing. Once the investigator is confident that rapport has been established with the child, the conversation should be turned to the subject of the assault. The specific matter of the assault can often be introduced by asking children, "Do you know why I want to talk to you?" Alternatively, investigators can say something like, "Now I want to talk about who is bothering you." Once the topic of the sexual assault is actually introduced, expert detectives recommend that the seriousness of the matter should be neither undermined, nor overemphasized. Obviously, investigators should attempt to discuss the assault without doing any lasting psychological damage to the child.

The specific details of the assault should be obtained by asking the child to describe in his or her own words what happened. If necessary, victims should be reassured that they did not do anything wrong. Victims should also be reassured that they are safe from the assailant. In cases involving young victims, the child is often threatened and may have a substantial fear of reprisal.

Follow-up questions. Invariably it will be necessary to ask the interviewee follow-up questions. More often than not it is necessary to draw things out of the child. When doing so, asking questions that require more than a yes or no answer is often helpful. Asking "What else happened?" or "Then what did he do?" will generally bring a better response than asking "Did he . . .?" questions.

If a child is likely to have difficulty naming anatomical structures, the victim can be asked to point out body parts on boy and girl dolls. As a rule, the use of highly detailed anatomical charts for this purpose should be avoided. Younger children, in particular, find it much easier to relate to dolls than to charts, diagrams, or photographs which are unnecessarily realistic and detailed.

5.5 Interviewing Witnesses

Eyewitnesses are rarely available in rape cases. However, there are many more kinds of witnesses besides those who actually observe the crime being committed. The first person to whom a victim reports being raped can provide very important testimony regarding the victim's response to the assault. Hospital personnel are generally able to supply additional testimony regarding this issue. Neighbors, passersby, and other individuals will frequently be a source of highly persuasive corroborating testimony. Some cases are solved as a result of information provided by identification witnesses who are able to place a suspect at the scene of an assault. Alibi witnesses must often be interviewed regarding statements made by suspects. The circumstances of certain cases can require that character witnesses be interviewed regarding the backgrounds of either complainants or suspects. Few rape investigations involve interviewing an eyewitness. However, other types of witnesses must be interviewed in almost every rape case.

General techniques. All witness interviews differ in some respects. However, the general purpose of inter-

views with witnesses is to obtain information which is of official interest to the investigator. In some instances, witnesses must be interrogated because they are reluctant to make a full disclosure of the information they possess or because they are suspected of being implicated in the commission of the crime. Regardless of whether an investigator is preparing an interview or an interrogation, there are some general guidelines which are usually of great potential value:

(1) Avoid catchwords. Obtaining even an informal statement from some people can cause difficulties if they fear that "getting involved" might result in a court appearance. Avoiding words like "witness" and "Testify" as well as allusions to the possibility of being subpenaed frequently decreases such difficulties.
(2) Go to the witness. Many investigators prefer to meet with witnesses at police headquarters. However, the time expended going to a witness's home or place of employment is frequently less than that which is wasted by no-show appointments.
(3) Encourage reluctant witnesses. Some witnesses are reluctant to supply information which might "cause trouble." This problem must usually be solved on a case-by-case basis. Sometimes appealing to a witness's ego needs or feigning the need of information for "confirmation" purposes helps encourage reluctant witnesses.
(4) Keep witnesses separated. While waiting to give statements, witnesses as well as suspects should be kept out of one another's sight.
(5) Respect the victim's privacy. All victims, but especially those who have been raped, appreciate maintaining as much privacy as possible. When interviewing potential witnesses, identifying either the victim or the specific crime that was committed should be avoided. Indeed, it is sometimes easier to obtain information from potential witnesses regarding a suspect who "broke into a residence," "stole a purse," or "threatened a neighbor" than it is to obtain cooperation in a "rape investigation".
(6) Maximize inquiries. Many witnesses are reluctant to come forward with information. Others may not realize the importance of the information they possess. Maximizing the number of inquiries that are made will increase the number of potential witnesses who are identified.
(7) Plan ahead. Plan in advance the questions to be asked during a formal interview. Basic questions establishing the facts in chronological order are always helpful.
(8) Establish the elements of the crime. Interview questions should be prepared to establish the existence of the elements of the crime. Appropriate follow-up questions to jog memories or help adjust exaggerations are also necessary in most instances.
(9) Separate facts from inference. Simple, direct questions can be used to separate facts from inference, opinions, and speculation.
(10) Select appropriate language. Vocabulary, language, and style should be suited to specific interview situations. Jargon and legalistic questions should be avoided. Friendly chitchat may be initially helpful, but once the formal interview has begun, encourage the witness to stick to the subject.
(11) Think twice about recording devices. Some people are much more willing to be interviewed if a recording device is not being used.
(12) Use a question-answer format for witness statements. This format is frequently the most effective way to obtain the specific information in written statements. While most written statements from witnesses consist of undirected narratives, a more effective method for obtaining witness statements involves writing out a specific question on the witness's statement form and then requesting the witness to provide a written response directly beneath it.
(13) Provide necessary advisements. Frequently witnesses have reasons to provide information which is not completely accurate. Some such statements result from an attempt to conceal complicity in a crime. Particularly in rape cases, alibi witnesses may be helping a friend conceal the truth. Whenever it is indicated, an appropriate advisement of rights should be provided to the witness prior to the beginning of the interview. When doing so, citing local law concerning false statements from witnesses and administering the advisement in writing may help to underscore the seriousness of the situation.

5.6 Interviewing Rape Suspects

Although most rapes are never solved, all sex crimes investigators are called upon to interview some accused rapists. These suspects should be interrogated in much the same way as individuals accused of other violent felonies. When an accused rapist is identified it is always helpful to obtain a statement as soon as possible. The sooner a suspect commits himself to a story, the sooner an investigator can proceed to either verify it or disprove it.

General techniques. The techniques used to interview rape suspects should be selected according to the personality type of the accused.[6] However, there are some general techniques which apply to all suspect interviews. Although most police officers develop their own favorite interrogation methods, the following guidelines should be helpful in almost all rape cases:

(1) Provide the necessary advisements. Make sure the accused is properly advised of his rights every time you talk with him, so that any statement he makes is admissible. However, investigators should attempt to minimize the

chilling effect of advisements by referring to them as "routine procedure."
(2) Offer to help the accused prove his account of what happened. Explain to him it is your duty to investigate any information that might help him prove his innocence. Ask him to provide some kind of information that can be "checked-out" to show he is not guilty. Explain that if he does provide information which proves to be correct, he will be eliminated from further suspicion.
(3) Take sufficient time. Once the accused agrees to talk to you, do not rush the interview. Interrogations evolve at their own pace and should not be hurried.
(4) Try to make the suspect like you. Attempt to establish some rapport with the accused. Avoid an adversary situation.
(5) Change interviewers if necessary. Should it become obvious that an inability to establish rapport is preventing the suspect from speaking freely, change interviewers even if it means a delay in taking the statement.
(6) Discuss general topics first. While making casual conversation, attempt to learn something about the suspect's interests or lifestyle that will lead into a discussion of the events in question. Move from the general to the specific.
(7) Never condone the suspect's actions. Do not agree with the accused that he was "led on" by the victim or that "she asked for it." Never refer to the victim in a derogatory manner, even though the accused might. If a verbal response is necessary to keep the accused talking, try saying "Tell me more about that" or "I don't understand what you mean by that."
(8) Be satisfied with a partial disclosure. Sex offenders are usually reluctant to relate the intimate aspects of their assaults. Some of them will discuss their cases in great detail, particularly if they are offering a consent defense, but most stop short of mentioning anything they think might cause them to be labeled as perverted. Be satisfied with a disclosure of the date, time, and place of the assault, along with an admission that the sex acts were committed without the consent of the victim.

5.7 Summary

Interviewing the victim to obtain a formal statement is a critical part of the investigation of a rape case. The information supplied by the victim will direct the entire course of the investigator's activities. The way in which the interview is conducted will have a direct bearing on the victim's willingness to continue to cooperate in the investigation and prosecution of her case. Although it is necessary to obtain embarrassing personal information from the victim, good interview techniques can be used to do so with sensitivity, discretion, and professionalism. Regardless of the victim's age, investigators can develop interview skills to maximize the amount of useful information obtained while minimizing the victim's further emotional trauma.

Although there are few eyewitnesses to rapes, there are almost always other types of witnesses to be interviewed. In cases involving victims who immediately report being raped, the first person they notify can testify as a fresh-complaint witness. Other people can usually corroborate some aspect of a victim's account of her assault. Witnesses of all types are very important to the development of successful rape prosecutions. Enhancing skills to interview witnesses is as important as developing techniques for interviewing victims.

All sex crimes investigators are called upon to interview rape suspects from time to time. When conducting such interviews, officers should utilize the same procedures as would apply in other violent felonies. In addition, investigators should remember that most rape suspects are reluctant to make a full disclosure of their crime. However, suspects who claim the victim consented to the sex acts in question will usually be willing to make a statement.

NOTES

[1] International Association of Chiefs of Police, *Training Key Number 210—Interviewing the Rape Victim* (Gaithersburg, Md: International Association of Chiefs of Police, 1974).

[2] Carol Bohmer and Audrey Blumberg, "Twice Traumatized: The Rape Victim and the Court," *Judicature*, 58 (1975), 391–99; Sybil Landau, "Rape: The Victim as Defendant," *Trial* (July–August, 1974); Sally Ellis Mathiasen, "The Rape Victim: A Victim of Society and the Law," *Willamette Law Journal*, 11, No. 36 (1974).

[3] Charles R. Hayman, M.D., "Sexual Assaults on Women and Girls," Annals of Internal Medicine, 72, No. 2 (1970), 277.

[4] Also see C. J. Flammang, "Interviewing Child Victims of Sex Offenses," *Police*, 16, No. 6 (February, 1972), p. 24–28; International Association of Chiefs of Police, *Training Key Number 224—Interviewing the Child Sex Victim* (Gaithersburg, Md: International Association of Chiefs of Police, 1975).

[5] See Charles E. O'Hara, *Fundamentals of Criminal Investigation* (2nd ed.; Springfield, Illinois: Charles C. Thomas, 1970), Chapter 10 "Admissions, Confessions, and Written Statements," pp. 126–141, and Appendix I "Interrogation Techniques," pp. 814–831.

[6] See Murray L. Cohen et al., "The Psychology of Rapists," *Seminars in Psychiatry*, 3 (August, 1971), 307–27; Walter Bromberg and Elizabeth Coyle, "Rape: A Compulsion to Destroy," *Medical Insight*, 22 (April, 1974), 21–25; Fritz Henn, Marijan Hersanic, and Robert H. Vanderpeall, "Forensic Psychiatry: Profiles of Two Types of Sex Offenders," *American Journal of Psychiatry*, 133 (1976), 694–96; Gary Fisher and Ephraim Rivlin, "Psychological Needs of Rapists," *British Journal of Criminology*, 11 (1971), 182–185; Asher Pacht and James E. Cowden, "An Explanatory Study of Five Hundred Sex Offenders," *Criminal Justice and Behavior*, 1 (1974), 13–20.

CHAPTER 6. EVIDENCE

Evidence consists of the objects, documents, and statements by witnesses which are used to further an investigation or establish the facts of a case in a court of law. Material objects are known as physical evidence while statements by witnesses are known as testimonial evidence. Evidence may be used either to prove or disprove the existence of the elements of a crime. The successful conclusion of every criminal investigation depends on the value of the evidence that can be collected and developed.

6.1 Sufficiency of Evidence

Investigators must frequently make decisions regarding the volume of evidence sufficient to establish an element of a crime. Prosecutors generally encourage police to collect every possible piece of physical evidence and interview all potential witnesses. However, resource limitations prevent such extensive efforts except in the most serious of cases. Predicting the defense an accused rapist is likely to offer helps resolve this dilemma. Investigators should concentrate on developing evidence that will prove the element that is most likely to be the basis of the defense offered by the accused. If it is likely that the accused will offer an identification defense, special efforts should be expended to develop evidence to establish the identification of the perpetrator. Likewise it is true for consent, penetration, and insanity defenses.

6.2 Physical Evidence

In rape cases, physical evidence can be used to corroborate sexual penetration, the identity of the perpetrator, and lack of victim consent. In practice, however, the primary use of evidence is to prove a case against a suspect who has been identified through other means.[1] As a rule, physical evidence seldom leads to the identification of an unknown suspect, and it is rarely, if ever, the only source of proof presented in a rape prosecution. In fact, technical problems frequently prevent items from being admitted as evidence because they have not been properly obtained, collected, or processed.

Obtaining physical evidence. The first problem involved in obtaining physical evidence is locating it. Depending on the circumstances of the crime and how promptly it was reported, physical evidence may be found at any of several different places. The following are locations which could be processed by the appropriate personnel for the presence of physical evidence:

(1) crime scene—the location where sexual penetration actually occurred;
(2) the venue—the general vicinity of the crime scene including other rooms in the same house or building, as well as the curtilage.
(3) the location of initial contact—the place where the victim was first encountered by her assailant;
(4) the route of travel—the path taken by the victim and her assailant from the location of first encounter to the crime scene;
(5) vehicles—any means of transportation the victim and her assailant used to travel from the location of first encounter to the crime scene;
(6) the victim—the victim's person including her external body surfaces from which latent fingerprints of the assailant may be lifted,[2] her clothing, her hair, and the areas of her body subjected to sexual contact;
(7) the accused—the body and clothing of any suspect; and
(8) the property of the accused—the home and vehicles of the accused frequently yield valuable physical evidence even if they were not used during the commission of the crime.

Obviously, when dealing with physical evidence obtained from the suspect, his residence, or his vehicles, it is necessary to observe all of the relevant law concerning search and seizure. Items are frequently suppressed as evidence because of an improper search or unlawful seizure. To avoid such problems, warrants or court orders should be used whenever possible. As a general rule, warrantless searches of a suspect's residence or vehicle should never be conducted, even if that search is incident to an arrest. Sealing the premises or impounding the vehicle while a warrant is obtained, or utilizing formal procedures to undertake a consent search, places the burden of proof on the defense in the event of a suppression hearing. Similarly, obtaining a court order before removing evidence which requires a significant intrusion of the defendant's person likewise affirms the legality of the seizure. Failing to obtain a warrant or a court order frequently results in the loss of irreplaceable evidence.

Also of great importance are certain other factors which should be taken into consideration when articles to be used as evidence are obtained from the victim or her residence. Items impounded as evidence are frequently held for extended periods of time. In addition, laboratory procedures sometimes ruin articles which are submitted for analysis. Holding items for extended periods or

damaging them beyond use can cause a substantial hardship for victims. Whenever it is necessary or desirable to impound property belonging to the victim, the consequences of doing so should be discussed with her in advance. She should be told how, when, and in what condition she can expect return of her property. She should also be told what impact her withholding of items is likely to have on the successful prosecution of her case.

Collecting physical evidence. Physical evidence must be properly collected and maintained to insure both its admissibility and value. A frequent source of difficulty in criminal prosecution is the failure of police, medical, laboratory, and custodial personnel to maintain an unbroken chain of custody. To avoid this difficulty, investigators should encourage the development and use of adequate procedures to sustain the chain of custody for all items of evidence.

The best method to preserve a chain of custody is to minimize the number of people required to handle items. For example, when conducting a crime scene search, only one officer should be responsible for collecting and labeling evidence irrespective of who located the item. Ideally the officer assigned to collect and mark evidence should be a specially trained crime scene technician. In any case, every effort should be made to maintain the shortest possible chain of custody.

All items of physical evidence should be collected, labeled, and preserved so as to avoid damage and contamination. Providing specific procedures to accomplish this is beyond the scope of this manual. To obtain such information, the reader is referred to the following:

> Bloch, Peter B. and Donald R. Weidman. *Managing Criminal Investigations* (Washington, D.C.: U.S. Government Printing Office, 1975);
> Fox, Richard H. and Carl L. Cunningham. *Crime Scene Search and Physical Evidence Handbook* (Washington, D.C.: U.S. Government Printing Office, 1973); and
> Federal Bureau of Investigation. *Handbook of Forensic Science* (Washington, D.C.: U.S. Government Printing Office, 1974).

Processing physical evidence. Once it has been gathered, physical evidence must be analyzed. Even though there are many more items which could be gathered than are actually collected, crime laboratory facilities are generally unable to analyze all of the specimens that are gathered.[3] As a result, police personnel should make every effort to be selective in their choice of items submitted for analysis.[4] This consideration takes on added significance in view of the fact that the primary value of physical evidence is to build a case against a specific accused person rather than identify an unknown suspect.

Whenever possible, physical evidence should be processed at a crime laboratory rather than at a medical facility. Police processing of physical evidence helps to maintain uniformity of analysis. It also helps standardize reporting procedures. In addition, police laboratory personnel are more readily available for, and accustomed to, court appearances. The obvious exception to this procedure involves perishable specimens like semen samples taken to determine sperm motility. Specimens such as these should be analyzed immediately, at whatever facility practicable.

6.3 Testimonial Evidence

In rape cases, testimonial evidence—the statements made by witnesses under oath—is usually more valuable than physical evidence. This is because testimonial evidence is usually much more readily available than physical evidence. In most states, a rapist could theoretically be convicted on nothing more than the testimony of the victim. In practice, however, a successful prosecution for rape is normally impossible without a substantial amount of corroborating evidence. The most valuable source of such corroboration is the testimonial evidence which may be obtained from various kinds of witnesses.

Police officers. The witnesses of greatest potential value in rape prosecutions are the first police officers to contact the victim following her report. These officers can provide indispensible testimony regarding the victim's lack of consent. As trained observers, these personnel can describe the emotional condition of the victim as well as her personal appearance. Both of these kinds of evidence are highly relevant to the element of consent.

Medical witnesses. The medical personnel who deal with a victim immediately following her assault can be very valuable witnesses. These personnel can help prove both the element of sexual penetration and the lack of victim consent. The individual performing the pelvic examination of the victim is an expert witness who can testify regarding both of these elements. Other medical personnel who can testify regarding the victim's emotional condition, injuries, or physical appearance, also make valuable witnesses.

Laboratory personnel. The personnel who analyze physical evidence are normally called to give testimony regarding the standard laboratory tests they have performed. When developing a case for prosecution, investigators should not overlook the potential value of other testimony laboratory personnel can provide. For example, to help prove lack of victim consent, a laboratory technician might be able to testify regarding the amount of force necessary to tear a particular piece of clothing.

Other witnesses. Many other witnesses can be called to corroborate various aspects of the victim's account of her assault. Sometimes these witnesses can provide di-

rect evidence that the defendant did in fact commit the crime of which he is accused. Other times, witnesses can do nothing more than help reduce doubt that the defendant is guilty. The value of this kind of testimony should not be underestimated. In addition, locating witnesses who can corroborate portions of the victim's statement and thus enhance her credibility can also be of great value in a rape prosecution.

6.4 Summary

The successful outcome of rape cases depends on the value of the evidence collected during the course of the preliminary and follow-up investigations. Most physical evidence must be collected at the time of the initial report or it will be lost. Evidence can be of either positive or negative value. That is, specific evidence can be used to prove either a crime was committed or that it was not; evidence may be used to help prove that a particular suspect was the perpetrator of the crime or to eliminate him from further suspicion. Some evidence can provide direct proof of an element of the crime, while other evidence can only help to eliminate doubt. In view of this consideration, police personnel should always attempt to obtain any evidence that might be of value. However, since the resources that can be devoted to the collection and development of evidence are limited, police officers should selectively collect the evidence that will be of greatest potential use in neutralizing the defense the accused is most likely to offer.

NOTES

[1] Peter B. Bloch and Donald R. Weidman, *Managing Criminal Investigations* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 25.

[2] See Chapter 8, *"Fingerprints."*

[3] Bloch and Weidman, op. cit.

[4] See Joseph L. Peterson, *The Utilization of Criminalistics Services by the Police* (Washington, D.C.: U.S. Government Printing Office, 1974).

CHAPTER 7. TECHNIQUES FOR PROVING SEXUAL PENETRATION

In order to establish that a rape has been committed, it is necessary to prove that sexual penetration has taken place. Technically, the only evidence necessary to prove the existence of this element is the testimony of the victim. However, corroborating the victim's testimony through other means helps not only to provide added proof relating to this element, but it also adds credibility to the victim's testimony regarding the remaining elements of the crime.

7.1. Crime Scene Evidence

A considerable amount of evidence of sexual penetration is usually available from the scene of a rape and other related sources. In most cases, if this evidence is not obtained at the time of a victim's initial report, it will be lost. As a result, the officers involved in the initial response to a rape complaint must ensure that such evidence is collected. In addition, officers should remember this kind of evidence is actually proof of emission rather than penetration. For that reason, negative findings can be interpreted to mean a perpetrator either did not ejaculate or perhaps wore a condom. Moreover, when items stained with body fluids (blood, semen, etc.) are obtained, they should be dried and collected into paper bags, *not* plastic bags, in order to prevent putrefaction.[1]

Bedding, etc. Semen stains can usually be located at the scene of a rape. Depending on where the crime actually occurred, these stains may be found on bedding, furniture cushions, auto upholstery, and even in dirt samples in the case of offenses committed out-of-doors. An effort should always be made to recover items from the crime scene which are likely to contain evidence of seminal emission. However, as a courtesy to the victim, before any of her personal property is collected for analysis, she should be told why the items are needed. Further, it is preferable not to remove anything from the victim's home without her knowledge and permission.

Towels and tissues. Frequently individuals involved in rapes wipe sexual secretions from their bodies with towels, tissues, etc. The victim should be asked if she is aware of any item that may have been used for this purpose by either herself or the accused. If so, she should be asked for her permission to collect such items so they may be analyzed for evidence of sexual penetration.

Victim's clothing. A rape victim's clothing, particularly her underwear, will usually be stained with semen. All of the victim's clothing, but especially her panties, should always be collected and analyzed for the presence of semen stains. Before she leaves for the hospital, it should be explained to the victim that she will need a change of clothes.

Suspect's clothing. If a suspect is arrested before he has the opportunity to change, it is likely that semen stains will be found on his clothes. Even if the suspect has changed, if the clothes he was wearing during the assault can be recovered before they have been laundered, semen stains are likely to be found.

Photographs. Photographic evidence of sexual penetration is sometimes recovered at the scene of a rape. This is most likely to be true of crimes that involve accomplices. In addition, victims who have been taken to the perpetrator's residence or some type of "club house" are sometimes photographed while they are being assaulted. If the victim knows that she was photographed or if circumstances indicate that a camera found at a crime scene might contain photographs of the offense, appropriate measures should be taken to seize this evidence.

7.2 Medical Examination

A medical examination immediately following an assault is the best means of establishing the existence of sexual penetration.[2] Such medical examinations yield two types of evidence of sexual penetration. (1) Physical evidence may be collected from the victim's body which can be examined to provide proof of penetration and how much time has elapsed since it occurred. (2) The individual who performs the examination can testify as an expert witness regarding the physical signs of penetration that are observed.

Rape kits. Many police agencies utilize so-called rape kits to obtain medical evidence in sexual assaults. These kits generally contain the cotton swabs, microscope slides, test tubes, paper bags, etc. necessary to examine rape victims. Rape kits are commercially available, but they are more commonly prepared by the hospitals in which victims are examined. The contents of the kits, including the physical examination protocol and the procedures established for their use, are normally decided upon by police and hospital administrators in consultation with representatives from the office of the prosecutor. Guidelines and standards for the contents of rape

kits are available from many published sources.[3] Investigators should ensure existing procedures for the use of rape kits are carefully followed, especially in cases involving victims who wish to have rape kits made available to their private physicians.

Vaginal samples. Samples taken from the victim's vagina can be microscopically examined for the presence and motility of sperm. The existence of sperm cells in these samples is positive proof of sexual penetration. The number and motility—the degree of movement—of sperm cells can be used to estimate how recently the sexual penetration occurred. However, the absence of sperm cells is not necessarily evidence that sexual penetration did not occur. The perpetrator might have been sterile, had a vasectomy, or he might have used a condom. It is also possible that the perpetrator failed to ejaculate.

Acid phosphates. Acid phosphatase is characteristically found in seminal fluid. A sufficient concentration of this enzyme in a specimen taken from a victim's vagina is proof of sexual penetration. This test can be used to prove penetration in cases involving victims in whose vaginal specimens sperm cannot be detected. In one such case, an acid phosphatase test for penetration was positive in a victim who was not examined until 34½ hours after being assaulted. Another such case involved a victim who had douched thoroughly and was not examined for 22 hours.[4]

Wood's lamp. Seminal fluid is fluorescent. An ultraviolet light (Wood's Lamp) can be used to detect the presence of possible seminal stains on the victim's clothing and/or body surfaces. Wood's Lamps can also be of help at crime scenes to locate what might be semen stains. However, many substances are fluorescent, including petroleum jelly lubricants.[5] Therefore, laboratory analysis is necessary to confirm the presence of semen.

Visual observation. Visual observation by experienced medical personnel during the pelvic examination of a rape victim can be a good source of evidence of sexual penetration. The condition of the victim's hymen as well as other portions of her genitalia can provide definite evidence of sexual contact.

7.3 Testimonial Evidence

A statement from the victim regarding the sexual aspects of the assault should always be obtained. In some cases, the accused is willing to admit having had sexual relations with the victim. This is particularly true when the perpetrator is contemplating a defense based on consent. Such statements by the defendant should be recorded for use as evidence. In addition to statements made by the victim and the perpetrator, other persons may be able to provide testimonial evidence relating to the element of sexual penetration. These individuals may be accomplices who are willing to testify for the prosecution, or they may be eyewitnesses to the crime.

7.4 Summary

To obtain a conviction for rape it is always necessary to establish the element of sexual penetration. Proving this element of the crime is usually established through the use of medical evidence. In addition, items of evidence recovered from the crime scene can also be used to corroborate sexual penetration. Despite the fact that comparatively few accused rapists offer a defense based on lack of penetration, sufficient evidence to prove this element must always be obtained.

NOTES

[1] For instructions on how to handle crime scene evidence in rape cases see: International Association of Chiefs of Police, *Training Key Number 137—Physical Evidence—Semen* (Washington, D.C.: International Association of Chiefs of Police, 1970).

[2] For descriptions of medical procedures for examining rape victims see: *American College of Obstetricians and Gynecologists Technical Bulletin*, No. 14, "Suspect Rape," (ACOG, 1 East Wacker Drive, Chicago, Illinois 60601, 312/222-1600); G. Richard Braen, M.D., The Rape Examination (North Chicago, Illinois: Abbott Laboratories, 1976); W. F. Enos, M.D., J. C. Beyer, M.D., and G. T. Mann, M.D., LL.D., "The Medical Examination of Cases of Rape," *Journal of Forensic Sciences*, 17, No. 1 (1972), 50–56; Charles R. Hayman, "Sexual Assaults on Women and Girls," *Annals of Internal Medicine*, 72, No. 2 (1970); Jack H. McCubbin, M.D. and Daniel E. Scott, M.D., "Management of Alleged Sexual Assault," *Texas Medicine*, 69 (September, 1973), 59–64; Louis R. Vitullo, "Physical Evidence in Rape Cases," *Journal of Police Science and Administration*, 2, No. 2 (1974), 160–163.

[3] See 1 above. In addition, the Technical Research Services Divisions, International Association of Chiefs of Police, 11 Firstfield Road, Gaithersburg, Maryland 20760, is currently preparing guidelines for the contents of rape kits.

[4] Joseph C. Rupp, M.D., Ph.D., "Sperm Survival and Prostatic Acid Phosphatase Activity in Victims of Sexual Assault," *Journal of Forensic Sciences*, 14, No. 2 (April, 1969), 177–83.

[5] David M. Paul, "The Medical Examination in Sexual Offenses," *Medicine, Science, and the Law*, 15, No. 3 (July, 1975), 156.

CHAPTER 8. TECHNIQUES FOR PROVING IDENTITY

To obtain a conviction for any criminal offense, the identity of the perpetrator must be proven beyond a reasonable doubt. Developing such proof can be especially difficult in rape cases. Many rapes are stranger-to-stranger crimes in which the victim is the only witness who can identify the accused. However, victims are frequently unable to provide a visual identification of the perpetrator because many rapists are careful to conceal their identity. Nonetheless, there are many techniques which can be used for (1) apprehending fleeing assailants, (2) generating pools of possible suspects, and (3) confirming the identity of arrestees. Experienced sex crimes detectives and patrol personnel were surveyed regarding the relative effectiveness of these investigative techniques. The data provided by these officers are incorporated in the information presented below.

8.1 Apprehending Fleeing Assailants

Police are at the scene of a large majority of reported rapes within one hour of the time they are committed; they are at the scene of many within ten minutes. There is therefore a significant chance that an accused rapist can be apprehended in the vicinity of a crime scene. The following techniques can be used to increase the likelihood of arresting a fleeing assailant. Investigators should be aware of these techniques and ensure that they are appropriately utilized during the initial response to a rape report.

Radio lookout. In cases that involve an immediate report, a description of the assailant should always be broadcast. The procedures to accomplish this should be established by individual police agencies. Ideally, a preliminary description of the accused should be transmitted *after* a unit has been assigned to handle the initial investigation. By assigning a unit first, and broadcasting the description second, the responding officers can be on the lookout for a fleeing suspect as they approach the crime scene. In addition, the responding officers can be on route to the scene while communications personnel are obtaining description information. A further description may be aired at the appropriate time by the officers dispatched to the scene.

Area search. In all cases involving an immediate report, the venue of the crime should be searched. The assailant's direction and mode of travel, if known, should guide search efforts. In addition, the time elapsed since the commission of the crime should help to determine how far from the crime scene the assailant may have been able to travel. Personnel coordinating an area search should always make certain that logical escape routes are covered as well as the immediate vicinity of the crime.

Tracking dogs. Many police agencies have access to tracking dogs. In cases involving an immediate report, dogs can be of genuine help locating a fleeing or hiding suspect. The nature of a rape dictates that the assailant will leave a substantial amount of scent at the scene of the crime. If tracking dogs are brought into the case promptly, they are of great potential value.

Helicopter surveillance. The value of helicopters in rape cases is largely the same as it is in other major felonies. Their value is primarily associated with pursuit and search functions. Beyond these specific applications, helicoptors do not seem to be of any added value in rape investigations.

8.2 Generating Pools of Possible Suspects

There are many techniques which can be used to generate pools of possible suspects in rape cases. The value of any particular technique is dependent upon the case in which it is used and the resources invested in the application of the technique. Thus a particular technique may be very valuable in one case and not at all helpful in another. In some instances, success may depend on the circumstances of the particular offense. In other cases, success may be governed by the time devoted to the application of a technique, the extensiveness of available records, or simply a lucky break.

Previous offender files. The known offender file is the device most commonly used by experienced detectives to generate suspects in rape cases. Departments maintain these files in various ways. Most departments maintain them as photographs of individuals previously implicated in a rape or other sex offense. In all cases involving an unknown perpetrator, previous offender files should be utilized to generate possible suspects. In cases involving victims who are unable to provide a visual identification of the perpetrator, these files can be used in conjunction with information gathered from other sources to develop a list of possible suspects. If a visual identification can be provided, pictures of possible suspects should be shown to the victim and all available witnesses. The success of this technique is directly related to the amount of preliminary screening done by the investigator. Before individuals are included in the pool of possible suspects to be investigated further, they should be evaluated

on the basis of their physical description and current whereabouts.

Photo files. All law enforcement agencies maintain the photographs of arrestees in some type of files. Showing rape victims photographs from these files is another commonly used technique to generate suspects in a rape case. When using photograph files to generate possible suspects in such a case, investigators should observe the following guidelines: (1) Avoid showing witnesses too many photographs at any one time, by pre-selecting the pictures of individuals who could fit the physical description of the perpetrator. (2) Make every effort to use the most recent available photograph of each possible suspect. (3) Ensure that the photographs presented to witnesses show suspects who are in the proper age group according to their birth year—regardless of what their age was when they were photographed. (4) When selecting photographs to show witnesses, review the files of suspected rapists as well as individuals who have committed other sex offenses and violent crimes besides rape. Convicted rapists frequently have criminal records which include many offenses in addition to rape.[1]

Modus operandi files. Police agencies maintain *modus operandi* files in various different forms. In some departments they are organized simply according to the types of crimes that are reported. Other agencies organize their files according to the details of how specific offenses were committed. Regardless of how they are organized, M.O. files can be used to identify suspects by helping investigators group similar types of crimes.

Few law enforcement agencies, however, maintain sufficiently complete records to ensure the usefulness of this technique for generating pools of suspects in rape cases.

Description files. Some departments have developed description files to generate suspects in stranger-to-stranger crimes. These files catalogue individuals according to various aspects of the physical description as well as scars, marks, tattoos, nicknames, and other oddities. Description files are especially useful when there is something particularly unusual about the individual being sought. Their greatest limitation involves the ease with which people are able to alter some of their physical features. In addition, like all other police records, the value of description files is determined by the volume of resources devoted to keeping them accurate and updated.

Composite pictures. Composite pictures can be of great value in the investigation of rape cases. They can be used to help identify possible suspects and locate witnesses. A comparison of the relative value of artist's drawings and commercially available kits utilizing plastic overlays cannot be made. This is because so few of the detectives surveyed had experience with more than one technique for producing composite pictures. However, many of those interviewed expressed the opinion that the value and quality of composite pictures varies considerably according to the expertise of the individual producing them.[2]

Area canvass. Many expert detectives believe that the area canvass is the most effective way to identify possible suspects in a rape case. The venue of the crime, the route of travel, and the location of first encounter should all be canvassed as dictated by the circumstances of the crime. Canvassing should be done immediately. However, recanvassing with a composite picture of the perpetrator can be especially helpful. In addition, "round-the-clock" surveillance can often help uncover witnesses whose daily routines may have put them in the area at the time of the crime. The details of every canvass, including both positive and negative results, should always be recorded for future reference by all personnel involved with the case.

Intradepartmental communications. Various forms of intradepartmental communications can be of substantial value in generating pools of possible suspects. The distribution of composite pictures of suspects and flyers describing open investigations to patrol personnel frequently provides positive results. Discussing cases with officers from other investigative divisions is often helpful, especially in cases involving the commission of some other offense in addition to the rape. Some expert detectives indicated that personal conversations with the patrol officers in whose area a specific offense occurred often produced valuable information. Carefully reviewing field interrogation cards and other intelligence information can also suggest the identity of possible suspects.

Interagency contacts. Many law enforcement agencies have obtained positive results from procedures designed to share investigative information with other police agencies in their area. In various parts of the country, and especially in metropolitan areas, police agencies have set up programs to share information about recent offenses and open investigations. Regular meetings are often held to facilitate the dissemination of information. Alternatively, teletypes, wanted flyers, composite pictures, and intelligence bulletins may be circulated among neighboring departments.

Motor vehicle information. A standard technique used in all types of criminal investigation is the development of information regarding vehicles involved in the commission of crimes. When victims are able to provide such information it usually proves to be most helpful in the identification of a possible suspect. However, frequently vehicles are not involved in the commission of a rape or victims do not see the vehicles which are used. In these cases, investigators should concentrate on obtaining vehicle information from other witnesses who may have had the opportunity to observe the vehicle used by the

perpetrator. Frequently these vehicles are implicated in the commission of other crimes. Maintaining and reviewing files of vehicles involved in the commission of all types of crimes can produce a high payoff in rape investigations.

Lineups. Rape victims should be invited to attend all lineups involving individuals who resemble their assailants. Even if the participants in the lineup are not suspected of sex crimes, rape victims should be notified and invited to attend if convenient. This technique sometimes results in the identification of a rape suspect, and generally helps to maintain the victim's confidence in the efforts being made by the police. Special efforts should be made to have witnesses view every lineup including suspected sex offenders who match the description of the individual they can identify.

Second sightings. Experienced detectives have reported the value of second sightings in identifying a rape suspect. Witnesses and victims should be instructed to make the appropriate notifications if they subsequently sight the accused on the street or elsewhere. In addition, it is often valuable to make periodic visits with the victim to locations where there is a possibility of sighting a suspect.

Crime analysis files. Investigators who have access to crime analysis files maintained by their own or neighboring departments should make every effort to use this resource to generate pools of possible suspects. The crime analysis units of many large police departments will allow officers from surrounding agencies to use their files. Records of the locations of crimes, the addresses of known offenders, oddities, vehicles used in crimes, weapons, stolen property, distinctive M.O.s, "street names" ("monikers"), aliases, and many other files which can help identify possible suspects are maintained by most crime analysis units.[3]

Informants. As in other criminal offenses, when informants can be found, they generally prove to be very valuable. Informants are most often involved in cases perpetrated by multiple offenders. However, since most rapists are solitary offenders who do not make the commission of their crime known to others, informants are seldom available.

Stakeouts. From time to time, police agencies will organize a stakeout to apprehend an individual suspected of rape. This technique is usually of benefit only in situations involving multiple offenses apparently perpetrated by the same individual. All stakeouts require the expenditure of a significant amount of resources. The probability of producing positive results using a stakeout increases according to the regularity with which offenses are attempted, and the precision with which the location of any future offenses can be predicted. Unless these factors can be determined with a high degree of accuracy, stakeouts to apprehend an accused rapist usually do not prove to be highly successful.

Decoys. The deployment of decoys is another technique sometimes used to apprehend a pattern rapist. This technique is subject to the same limitations as described for the use of stakeouts. In addition, the danger to which the decoys are exposed is an added disadvantage. Although this technique may have a greater potential for producing positive results, it too should be avoided except in extraordinary situations.

Arranged meetings. Rapists can sometimes be arrested through the stakeout of an arranged meeting between the accused and the victim. At the time of the crime, some perpetrators ask their victims for dates or otherwise attempt to arrange future meetings. In these cases, victims frequently agree to the plan proposed by the accused to facilitate their release. Whenever victims seem emotionally strong enough to do so, they should be asked to keep such appointments so stakeout officers can arrest the accused.

Recent arrests. Many rapists are repeat offenders. The arrest of one suspect can sometimes clear several cases. Whenever an individual is arrested for rape, a review of all open cases should be made to determine if the arrestee can be charged with additional offenses. Police agencies in neighboring jurisdictions may benefit through the exchange of information on individuals arrested for rape. Establishing procedures to facilitate this is another form of intra-agency cooperation which can help to clear more rape cases. In addition, suspects arrested for offenses like prowling or window peeping as well as other violent crimes should be investigated for possible involvement in rape offenses.

Third-party reports. Third-party reports are unofficial rape complaints made to police agencies through third parties by victims who do not wish to be identified. These reports are usually conveyed through an established channel like a local rape crisis line or victim services organization. Experienced sex crimes detectives have indicated that third-party reports are rarely of any value in identifying possible suspects in rape cases. Participation in a third-party reporting system, however, usually has a positive influence on a department's community relations.

8.3 Confirming the Identification of Arrestees

Once a pool of possible suspects (or a specific suspect) has been identified, it is necessary to develop sufficient evidence to prove which, if any, of the suspected individuals actually perpetrated the offense under investigation. Many techniques may be used to accomplish this. In some instances such proof may be achieved exclusively through the use of physical evidence. In others it

may be achieved through the use of testimonial evidence alone. In all instances, the more evidence of identity that is developed, the stronger the case. Investigators should therefore attempt to develop all possible evidence to prove the identity of the perpetrator.

Some of the identity evidence in rape cases will provide direct proof of the identity of the perpetrator of the offense. Other evidence will only help to reduce doubt. The purpose of some evidence will be to eliminate certain suspects or exculpate others. Regardless of its purpose, all identity evidence should be thoroughly developed and evaluated for its potential use in the prosecution of the case. The following are various techniques which can be used to prove identity in a rape prosecution.

Fingerprints. As in other criminal proceedings, fingerprints can provide indisputable evidence of identity. When indicated by the circumstances of the case, thoroughness dictates that rape crime scenes should be processed for the presence of latent fingerprints. Failure to do so could introduce a substantial amount of doubt in the minds of a judge or jury as to the validity of other identification evidence. However, experience has shown that few useable fingerprints are ever found at the scene of stranger-to-stranger rape cases, and even fewer suspects are ever identified through the use of these fingerprints.

The primary use of fingerprints in a rape prosecution is to prove a case against a suspect identified through other means, rather than to identify possible suspects. In some cases, this proof is constituted by finding the fingerprints of the accused at the crime scene, the location of initial contact, or some other significant place. In other cases, this proof is established through the discovery of the victim's fingerprints in the suspect's vehicle, residence, or some other location under his control.

Some crime laboratories have established procedures for lifting latent fingerprints from the body surfaces of living victims. These procedures involve special techniques using iodine vapor.[4] Such advanced techniques are neither widely available not applicable in every case. When such procedures are available, investigators should see to it that the proper steps are taken to avoid damaging the impressions which might be lifted from the victim's skin.

When obtaining fingerprint evidence, officers should always be aware of their impact on victims. For example, most citizens are very aware that police procedures usually include searching for fingerprints. If this is not done, rape victims wonder why; they may even feel that the failure to look for fingerprints is an indication that officers do not believe them. When a victim's home is dusted for fingerprints, officers should be careful to clean up after themselves. If usable fingerprints are found, it is necessary to obtain a set of the victim's fingerprints. This should be done so as to cause a minimum of inconvenience to the victim. Whenever fingerprints are obtained from a victim, great care should be taken to treat her respectfully and avoid making her feel like a criminal. If attempts are made to lift impressions left by the accused on the victim's body surfaces, all involved personnel should make a conscious effort to preserve both the victim's modesty and her dignity—she should never be made to feel that she is just one more piece of evidence.

Blood-typing. Most police personnel are aware of the investigative uses of blood types determined from blood samples located at the scene of a crime. In rape cases, blood types take on an added significance because they can be determined from the samples of the semen, saliva, and other body fluids of the 80 percent of the population known as "secreters".[5] Thus, the perpetrator's blood type can usually be determined by analyzing specimens from the victim's vagina. Although ABO blood type cannot be used to identify an individual to the exclusion of all others, it can be used to eliminate suspects either because they are not secreters, or because their blood type does not match that of the perpetrator. In all cases, but especially those involving rare blood types, such evidence can provide convincing proof to help reduce the amount of doubt in the minds of a judge or jury. To ensure the fullest potential use of this type of evidence, investigators should determine the capabilities of their own crime laboratories in identifying and typing (1) stains on bite marks and items of physical evidence, and (2) vaginal specimens. In addition, when collecting items to be processed for the presence of blood type secretions, investigators must be very careful not to contaminate specimens with oils from their own hands.

Hairs. Hairs can be of potential evidentiary value in rape cases.[6] Like certain other types of evidence, most of the information obtainable through the analysis of hairs is generic data which cannot be used to identify an individual to the exclusion of all others. However, in cases involving victims who never saw their assailant, this could be the only description information available. Bedcovers and clothing are the two most common sources of hair evidence. When collecting same to be processed for the presence of hairs, officers should take great care to roll and fold items so as not to dislodge any hairs which might be adhering to them. In cases involving the arrest of a suspect who has not had the opportunity to wash, his body should be examined for the presence of the victim's hairs. Depending on local procedures, arresting officers might be required to undertake this task themselves, or more commonly, they must request jailers to make this inspection.

Pollens, soils, fibers, and stains. Evidence derived from the presence of pollens, soils, fibers, or stains on

various items belonging to either the suspect or the victim is frequently underutilized. This is generally a result of the limited resources available for the analysis of physical evidence. Although it is preferable to avoid fishing expeditions, when there is a good reason to believe that evidence of this type is available, every effort should be made to collect it.

Miscellaneous left/taken evidence. In some cases, convincing evidence has resulted from analysis of items either left at or taken from the scene of a crime by either the perpetrator or the victim. Buttons from either the victim's or the suspect's clothing are sometimes found at the venue of the offense or in vehicles used during the crime. Matches and matchbooks, cellophane strips removed when opening a package of cigarettes, or articles of clothing either taken from or left at the scene of a crime can help to prove the perpetrator's identity. Frequently, individuals committing multiple rapes will collect items of their victims' clothing. When possible, the residences, vehicles, and places of employment of suspects should be searched for concealed items which may have been taken from victims or inadvertently left at crime scenes.

Castings and impressions. Occasionally, perpetrators leave footprints or tire tracks at the scene of a crime. When available, these can provide valuable evidence of identification. In rapes involving breaking and entering, impressions left by tools used to force open doors or windows should not be overlooked. In all cases involving forcible entry, rape detectives should consider utilizing the same techniques as would be appropriate in a burglary investigation.

Lineups. The live lineup is the most commonly used technique for obtaining a positive visual identification of the individual accused of a rape. Experience has shown that while victims sometimes fail to identify their assailant, especially if a substantial amount of time has elapsed since they were raped, they rarely identify the wrong person in a lineup. In states where they are legal, photo lineups are also effective. Frequently photo lineups are especially useful during the preliminary stages of case development because they require so little preparation compared to live lineups.

8.4 Summary

To obtain a conviction for any type of crime, the accused must be apprehended and positively identified. Various techniques for apprehending fleeing assailants, generating pools of possible suspects, and confirming the identification of arrestees are particularly useful in rape cases. The success of many of these techniques is largely dependent upon cooperation and input of patrol officers. Improved communications between patrol and investigative personnel is frequently necessary to effect the arrest and conviction of accused rapists. The collection of evidence to establish the identity of a suspect is a vital part of the cooperative involvement needed in all rape cases. It is particularly important when the accused is likely to offer a defense based on the victim's inability to identify him.

NOTES

[1] Battelle Law and Justice Study Center, *Forcible Rape: A National Survey of the Response by Police* (Washington, D.C.: U.S. Government Printing Office, 1977), p. 24.

[2] To avoid legal problems, artist's drawings should never be made through the use of a police photograph (mug shot) which resembles the assailant.

[3] For information regarding the development of a Crime Analysis Unit, see George A. Buck et al., *Police Crime Analysis Unit Handbook*, (Washington, D.C.: U.S. Government Printing Office, 1973).

[4] F. Trowell, "A Method for Fixing Latent Fingerprints Developed with Iodine," *Journal of the Forensic Science Society*, 15, No. 3 (1975), 189–95.

[5] Milton Helpern, M.D., and Alexander S. Wiener, M.D., "Grouping of Semen in Cases of Rape," *Fertility and Sterility*, 12, No. 6 (1961), 551–553. Also see: Margaret Pereira and P. D. Martin, "Problems in the Grouping of Saliva, Semen and Other Body Fluids," *Journal of the Forensic Science Society*, 16, No. 2 (April, 1976), 151–54.

[6] Federal Bureau of Investigation, "Don't Miss a Hair," *FBI Law Enforcement Journal*, (May, 1976).

CHAPTER 9. TECHNIQUES FOR PROVING LACK OF VICTIM CONSENT

Lack of victim consent is the most difficult element to prove in the majority of rape prosecutions. In rape cases involving principles who are known to each other, a defense based on consent should always be expected. In rapes which involve strangers, variations of the consent defense are also common. Specifically, an accused rapist may (1) claim that he is being falsely accused by a prostitute attempting to extort an additional payment, (2) insist that the victim precipitated the crime by hitchhiking or other risk-taking behavior, or (3) try to escape censure by impugning the victim's chastity. It is the responsibility of the sex crimes investigator to close off all these defenses by developing the maximum possible evidence to prove that the sex acts in question were committed without the victim's consent.

9.1 Victim Statement

The primary means of establishing lack of consent is the statement provided by the victim. In stranger-to-stranger crimes, the victim's lack of consent is often obvious from the circumstances of the crime. However, the existence of this element must still be corroborated. When the victim knows her assailant, much more evidence must be developed to prove lack of consent. In all cases, investigators should concentrate on obtaining (1) evidence to prove the presence of force or coercion, and (2) evidence showing the victim resisted or attempted to escape.

Force and coercion. The details of any force or coercion used against the victim should be documented in her formal statement. In addition, the setting of the crime should be described to demonstrate any advantage the perpetrator may have gained as a result of geographical isolation or surprise. The presence of accomplices or accessories should be documented, as should the verbatim contents of threats made against the victim. The victim's statement should also contain a description of any strong-arm force or weapons used against her.

Resistance and escape. Most courts consider the victim's resistance and attempts to escape to be persuasive evidence of lack of consent. The victim's statement should detail (1) all of her attempts to resist verbally including persuasion and shouting for help, (2) every type of physical resistance she used, especially any weapons employed against the perpetrator, and (3) any attempts the victim may have made to escape. In addition to a description of the resistance and escape attempts made by the victim, investigators should also document reasons why such efforts were not attempted or continued. Documenting both what kinds of resistance were provided, as well as the kinds that were not, may help to avoid problems during cross-examination.[1]

9.2 Medical Evidence of Force

The most persuasive proof of lack of victim consent is generally medical evidence of force like cuts, bruises, swelling, and other injuries. Most of this evidence is in the form of testimony provided by the medical personnel who treat the victim for her injuries. In particular, the physician who examines the victim is usually the source of the major portion of such evidence.

Physical examination. When a rape victim is transported to a medical facility she should receive more than a pelvic examination. She should be examined from head to toe for injuries and signs of force. Even the slightest cuts and bruises should be reported by the examining physician. In addition, experienced medical personnel may be able to provide testimony from the condition of the victim's pubic area regarding the force used.

Photographs. At the time of trial, color photographs of the victim's injuries have a major impact in proving lack of consent. Injuries that are visible at the time of the examination will generally disappear before the case is prosecuted. In addition, some injuries may not become apparent until two or three days after the rape. In all cases involving physical abuse, permission from victims should be sought to make arrangements for appropriate personnel to take color pictures of their injuries. Preferably, injuries should be photographed both at the time of the victim's physical examination and again after bruises have become more visible.

9.3 Crime Scene Evidence

The crime scene often yields excellent evidence of lack of consent. In some cases the location of the crime scene may help convince a jury of the victim's lack of consent. In many cases, the condition of the crime scene and items of physical evidence can be used to establish the existence of this element.

Signs of a struggle. In all cases involving victims who report resisting their assailant, crime scenes should be examined for signs of a struggle. In many instances, such

evidence is highly obvious. In other cases, especially those involving offenses committed in vehicles or out-of-doors, signs of a struggle are more difficult to discern. Whenever it is available, evidence of a struggle should be photographed for use at trial.

Torn clothing. Torn or stretched clothing constitutes excellent evidence of force. Items of damaged clothing should always be collected as evidence of lack of consent. In addition, clothes belonging to the accused may also be damaged by the victim. If circumstances so indicate, appropriate steps should be taken to recover items of torn clothing belonging to the suspect.

Weapons. Efforts should always be made to locate any weapons used during a rape. This includes items which may have been used as an improvised weapon either by the accused or by the victim in defense of herself. Objects thrown during a struggle should not be overlooked.

Bloodstains. Bloodstains at the scene of the crime have an obvious value as evidence of physical force. In addition, the clothing of the accused, and even his vehicle and residence, should also be searched for bloodstains if the victim reports that there were injuries to either herself or the assailant.

Bindings or Blindfolds. If the victim was bound or tied in any way, an attempt to recover the bindings should be made. Frequently rapists will cover their victim's eyes. Items used for this purpose should also be collected as evidence. When victims are interviewed regarding the possible existence of such evidence, officers should explain the value of these items in the prosecution of the accused. In addition, if articles used to bind or blindfold the victim are her personal property, her permission to impound them as evidence should be obtained as a courtesy.

9.4 Testimonial Evidence

Witnesses are often valuable sources of proof of lack of victim consent. Besides testimony from the physician who examines the victim, other witnesses may be able to corroborate the use of force against the victim or otherwise help establish her lack of consent. Maximizing the sources of testimony regarding this element will help investigators develop cases which can be successfully prosecuted.

Fresh-complaint witnesses. Fresh-complaint witnesses (also known as *res gestae* or "hue-and-cry" witnesses), are individuals to whom victims first report being raped. The existence of an immediate report by a rape victim is evidence of lack of consent. Victims should always be interviewed regarding the first person they told about being raped. These individuals should then be identified and located as potential fresh-complaint witnesses.

Police personnel. The first police personnel to have contact with the victim are almost always able to provide testimony which can help to prove lack of consent. For example, tape recordings of the victim's report to communications personnel are the source of much persuasive evidence regarding the element of consent. Testimony from the first patrol officers at the crime scene regarding the victim's physical appearance and apparent emotional condition is frequently under-utilized. Police procedures should ensure information regarding a victim's physical and emotional condition is recorded as part of the initial complaint. In addition, the personnel who made these observations should be called upon for testimony at the time of trial.

Corroborating witnesses. Any number of individuals may be able to help corroborate the victim's lack of consent. Attempts should be made to locate witnesses who heard screams, items being broken, or other sounds of a struggle. Hospital personnel can frequently testify regarding the victim's physical appearance. Evidence technicians can be called upon to describe the condition of the crime scene as well as their evidence-gathering activities. Service people who repaired broken windows or other property damaged during the assault may be able to provide relevant testimony regarding force. Occasionally, witnesses can be located who actually observed the victim struggling with the perpetrator. In addition, statements from the victim and any available witnesses regarding attempts by the accused to escape from the crime scene can sometimes be used to help establish lack of consent in the minds of the court or jury because flight can be construed to be an indication of culpability and criminal intent.

Investigators. Investigators should not underestimate the value of their own testimony regarding the victim's lack of consent. In addition to information regarding evidence they gather to establish this element, investigators can testify regarding the victim's physical appearance and emotional condition. Their comments regarding the victim's demeanor during the investigation and especially at the time of follow-up interviews can be most convincing evidence regarding the victim's lack of consent.

9.5 Other Evidence of Lack of Consent

Investigators should always be alert for the existence of evidence to help prove lack of consent. Careful consideration of the victim's initial statement regarding the assault may suggest the existence of some unusual piece of evidence relating to this element. For example, the victim might report that the perpetrator tore some hair from her head, or that she was able to scratch the assailant. Signs of these injuries might be discovered at the scene of the crime or on the perpetrator's body if he is arrested promptly. Moreover, physical evidence of these injuries like a wad of torn scalp hair or epithelial cells

under the victim's fingernails may also be available. In addition, circumstances might exist which would help convince the jury of the victim's lack of consent. In all cases investigators should be mindful of the possible existence of unusual evidence to help establish lack of consent.

9.6 Summary

Obtaining evidence to establish lack of victim consent is often the most difficult task in a rape investigation. Much of the most valuable evidence of lack of consent can be collected only at the time of the victim's initial report. Investigating officers have a vital role in the preservation and collection of this evidence. Some evidence relating to lack of consent is contained in statements made to patrol officers during their initial response. Much of the most valuable evidence to establish lack of consent comes from medical sources. Evidence from the crime scene, which sometimes includes unusual items suggested by the victim's initial statement, is always indispensable to the establishment of lack of consent. The testimony of various witnesses can also be very important to proving this element.

NOTES

[1] For a description of the "frozen-fright reaction" displayed by some rape victims and an excellent discussion of passive resistance, see Martin Symonds, "The Rape Victim: Psychological Patterns of Response," *The American Journal of Psychoanalysis*, 36, No. 1 (Spring, 1976), 27–34.

CHAPTER 10. OTHER INVESTIGATIVE TECHNIQUES

The investigation of rape cases requires much more than the development of evidence to prove sexual penetration, the identification of the perpetrator, and lack of victim consent. Many of the tasks performed by sex crimes investigators involve general police procedures which are applicable to other cases besides rape. The purpose of this chapter is to present some of the other techniques which may be of general assistance to investigators handling rape cases.

10.1 Case Management

The efficient management of individual investigations significantly contributes to the achievement of positive results. All criminal investigations require some degree of organization. In large departments that receive hundreds of rape complaints per year, individual investigators are assigned many rape cases. In these departments, detectives are usually required to conduct more than one rape investigation at a time. However, in smaller agencies, other duties generally place a substantial demand on investigators' time. Case load pressures and conflicting demands require investigators in departments of all sizes to organize their time. Experienced investigators utilize many devices to help maximize their own personal efficiency.

Paperwork. Investigators devote a significant portion of their working time to the completion of official paperwork. One of the best ways to manage paperwork is to keep it up-to-date. Maintaining good records and notes also helps. Another useful device involves maintaining up-to-date summaries of each active case. The preparation of complete reports is essential to the success of investigations. However, investigators should make every effort to minimize the time which must be devoted to paperwork.

Communications with victims. Maintaining good communications with victims and important witnesses generally contributes to the successful outcome of all criminal investigations. Periodically phoning these people can be very helpful. Sometimes victims or witnesses are able to provide additional information weeks, even months after completing their formal statement. Periodic contacts also help to maintain their interest in proceeding with the prosecution if the assailant is ever apprehended. These calls also help to keep track of any address changes which might be made. Victims are always interested in the progress of their cases. Notifying them of developments in the investigation is almost always appreciated. In addition, it is a good policy to notify victims and witnesses when the active investigation of a case has been terminated.

Obtaining current addresses. Frequently investigators need the current address of victims, witnesses, or named suspects. If this information is not available from police records, many other resources can be utilized. Some of these sources may not be able to release any of their records without a court order. However, many of the agencies that can and will provide information to police investigators are:

(1) victim services organizations;
(2) state motor vehicle departments;
(3) United States Postal Service (for official change of address information);
(4) telephone, electric, and gas companies as well as other public utilities;
(5) credit bureaus, banks, and other financial institutions;
(6) Aid to Dependent Children, Unemployment Compensation, and other public assistance agencies;
(7) probation, parole, and prison authorities (these sources can usually provide the current whereabouts of individuals as well as information concerning their friends and associates); and
(8) alimony collection offices (these bureaus may be able to provide information on both child support recipients, and those who are paying it even if they have fled to another state).

10.2 Identifying Possible Suspects

In rape cases involving unknown assailants, the most difficult task facing the police is identifying a suspect. Many techniques for doing this require a substantial records base from which a pool of possible suspects can be generated. However, most police agencies receive comparatively few rape reports. For this reason, many of the standard techniques for generating suspects may not be practical. The following techniques for identifying suspects should be of particular value to investigators who do not handle a large number of rape cases.

Law enforcement assistance. Investigators can frequently obtain valuable assistance from other law enforcement agencies. Many large departments will allow police personnel from neighboring jurisdictions to utilize their specialized resources. Most sex crimes unit detectives encourage the mutual exchange of *modus operandi* and suspect information. Investigative consultation is

almost always available from county or state law enforcement agencies. In addition, investigators should maximize the information they exchange with personnel in their own departments. Officers investigating rapes and other sex crimes should be aware of one another's cases as well as those being handled by detectives who specialize in other types of crimes. Rapists frequently commit many different offenses and often have long and varied arrest records.

General investigative techniques. Some of the techniques used in rape cases are applicable only to investigations involving sex crimes. However, many investigative techniques used in rape cases are nothing more than general police procedures. Investigators who are not highly experienced in handling sex crimes may benefit from using the general procedures with which they are the most familiar. Indeed, identifying suspects in a rape involving an unknown assailant requires many of the same techniques used in a robbery or burglary investigation.

Stolen property trace. Many stranger-to-stranger rape cases involve some type of theft. In these cases, the stolen property may provide a valuable clue to the identity of the accused. Whenever theft is committed in conjunction with a rape, investigators should be aware of the possibility of being able to identify a possible suspect by tracing the stolen property. Frequently, items stolen during a rape provide the only good lead to the identity of the perpetrator.

"Legwork". Regardless of the level of experience in handling rape cases, legwork is one technique that is always of great assistance. Rape investigations are always difficult. Sex offenses are very complicated crimes. Identifying unknown assailants, proving lack of consent, and locating corroborating witnesses are time-consuming and demanding tasks. As with many other types of criminal investigation, legwork is one of the detective's most valuable tools.

10.3 Developing Cases for Prosecution

Following the positive identification of the accused rapist by the victim, investigators must develop their cases for prosecution. Preparing a case for prosecution involves many administrative tasks. Before investigators present their cases to the prosecutor it is necessary to insure that all of these tasks have been performed. In some jurisdictions, prosecutors become involved early, while in others they are not consulted until the case is ready to be filed. In either instance, the following are some of the issues which should be considered during the latter stages of the case development.

Arrest of the suspect. If the suspect has not already been taken into custody, he must be located and arrested. Whenever possible these arrests should be made with warrants. Once a warrant has been obtained, the accused may or may not be easily found. Assistance locating and arresting the suspect is usually available from patrol personnel. Making arrests with the assistance of uniformed officers has many benefits. These arrests are usually safer. Individuals who do resist are much more likely to be convicted of that charge if they are arrested by uniformed officers. In addition, investigators can often improve the cooperation they receive from patrol by working with uniformed officers when making arrests. In particular, the officers who took the initial rape report or the officers in whose patrol area the suspect resides will probably be especially interested in participating in the arrest.

Alibis. Once a suspect has been identified, an attempt should be made to obtain a statement as soon as possible. As with other offenders, most accused rapists are not particularly willing to provide statements. Frequently, good results can be obtained by explaining to the accused that any exculpatory evidence he can provide will free him from any further suspicion if it can be verified. Should the accused provide an alibi, it should be thoroughly investigated before he has the opportunity to perfect his story or coordinate it with any of his friends. Especially with complex alibis involving many associates of the accused, one of the most successful tactics is to identify the weakest link in the suspect's story and concentrate on breaking it.

Polygraph examinations. The use of polygraph or psychological stress evaluator examinations in rape cases is a matter of controversy. Some police departments prohibit the use of lie detector examinations for rape victims. In other jurisdictions, a rape case has little chance of being filed if the victim does not submit to and pass a polygraph examination. Most experienced rape detectives consider polygraph examinations to be nothing more than investigative tools because they are not admissible as evidence. Although polygraph examinations for both principals in cases involving consent may be of some value, as a matter of policy, rape victims should never be required to submit to a lie detector test.

Criminal records. The accused's criminal record should be included as part of the case file presented to the prosecutor. In addition, any parole and previous probation reports should also be obtained. To avoid the possibility of a surprise move by the defense, investigators should also check the arrest record of rape victims. The existence of a criminal record should never be cause to doubt the victim. However, if a victim has been previously arrested, the prosecutor should be made fully aware of this fact.

10.4 Summary

Success in the investigation of rape reports requires

more than techniques to prove the basic elements of the crime. Other kinds of investigative skills and procedures are also necessary. Some of these involve the management of cases, maintaining the cooperation of victims, and obtaining the current addresses of various individuals. In addition, investigators must be familiar with other general techniques for identifying possible suspects and developing cases for prosecution. Sex crimes investigators should be familiar with the techniques to prove the elements of rape as well as with other procedures equally applicable in all criminal investigations.

CHAPTER 11. PROSECUTION PROCEDURES

The involvement of investigators is required at several different phases in the prosecution of rape cases. Once cases are fully prepared, they must be presented to the prosecutor's office to be considered for filing. After cases are filed, investigators are normally involved in some type of pre-trial hearing. Once a defendant is bound over for trial, it is possible that there will be additional hearings held on the case, and it is likely the defendant's attorney will offer a plea to some lesser charge.

The level of investigator's involvement at each of these stages, and during any trials which may actually take place, depends on the amount of assistance they can and will provide to prosecutors. Expert investigators who are concerned about the outcome of their cases can provide invaluable assistance to the deputy prosecutors. The extent of their partnership with prosecutors is largely dependent upon the amount of interest they express. Investigators who are well-prepared and exhibit substantial interest in the progress of their cases will normally have a much larger role in prosecutions than those who curtail their involvement as soon as the case is filed. Investigators who want a significant role in the prosecution of their cases should make every effort to maximize their involvement at each stage of the prosecutory process.

11.1 Case Preparation

Thorough case preparation is vital to the success of the prosecution process. For example, investigators should ensure that their cases are in the format required by the prosecutor's office and that any special forms have been filled out. A good device to help organize the preparation of cases is a filing checklist like the one shown below. When developing such checklists, an attempt should be made to include all the items that will be evaluated by the prosecutor responsible for making the filing decision. Regardless of what devices are used to prepare cases, certain documents must be part of the file presented to the prosecutor who evaluates the case.

Statements. The case file should always include the victim's formal statement and those of all fresh-complaint witnesses. If the accused provides any statements they should be included in the file. Any victim advocates involved in the case should be asked to supply statements for the case file. Statements from eyewitnesses, and any other individuals who can attest to the victim's emotional condition following her attack or otherwise corroborate the facts of the case, should also be included.

Reports. All official reports relating to the case must be part of the file reviewed by the prosecutor. The report completed by the patrol officers who conducted the initial investigation should be included and contain their observations of the victim's physical appearance and emotional condition at the time of her complaint. Follow-up reports, medical examination forms, and forensic reports should also be included. An inventory of physical evidence and a roster of witnesses should be part of the case file. In addition, copies of affidavits for warrants as well as the warrants, advisement forms (Miranda warnings), criminal record reports, lineup identification forms, and any other official reports relating to the case should all be included in the file presented to the prosecutor.

FILING CHECKLIST

Case Number:_____ Victim: _____
Date Presented:_____ Accused: _____

A. *Statements*
- ___Victim
- ___Patrol Officer(s)
- ___Fresh-Complaint Witness
- ___Defendant
- ___Victim Advocate
- ___Eyewitnesses
- ___Corroborating Witnesses
- ___Medical Personnel
- ___Others

B. *Reports*
- ___Initial Report Form
- ___Follow-Up Reports
- ___Medical Examination Form
- ___Forensic Tests Reports
- ___Evidence Inventory
- ___Witness Roster
- ___Affidavits for Warrants
- ___Warrants
- ___Advisement Forms (Miranda Warnings)
- ___Criminal Records Reports
- ___Lineup Identification Forms
- ___Other Reports

C. *Exhibits*
- ___Clothing of Victim
- ___Clothing of Defendant
- ___Diagram of Crime Scene
- ___Crime Scene Pictures
- ___Photographs of Victim Injuries
- ___Other Physical Evidence

Exhibits. The case file should also include any photographs or drawings that will be presented at the trial. Most often, these exhibits include drawings of the crime scene, crime scene photographs, and any available pictures of the victim's injuries. In addition, the file should include information on any other photographs or exhibits which might be available for the trial.

11.2 Filing Decision

Once cases are fully prepared and in the proper format, they must be presented to the prosecutor's office for a filing decision. Regardless of whether this decision is made by a special filing deputy, a trial deputy, or a particular prosecutor assigned to handle all rape cases, investigators can have a significant role in this decision. At the time investigators present cases for filing, they know more about them than anyone else. The additional information they have and the guidance they can give is of great potential value to the prosecutor. However, if investigators are ill-prepared to discuss their cases or if their advice continually proves to be faulty, prosecutors will lose confidence in them. When presenting a case for filing, investigators should anticipate the topics the prosecutor will want to discuss and prepare accordingly.

Case Summary. At the prosecutor's office, investigators should be prepared to present a short, concise summary of the case. Having this case summary in writing may be of added help to the prosecutor. As part of the summary, investigators should be prepared to give an opinion as to the appropriate charges that should be filed. The prosecutor will want to know how the facts of the case meet each element of the crime to be charged. In addition, the prosecutor will be interested in learning what evidence is available to prove each element. Investigators should have this information immediately accessable.

Strengths and weaknesses. Investigators should be prepared to render an opinion as to the strengths and weaknesses of the case. They should discuss which elements would be the easiest to prove, and which would be the most difficult. If they are aware of any technical problems or legal defects with the case, they should make them immediately known to the prosecutor. Investigators should consider the credibility of all of the witnesses who might be called to testify, including any known rebuttal or alibi witnesses. Investigators should present all the evidence which relates to the case, and avoid any unprofessional remarks which might reflect on them, their department, or the victim.

Deciding factors. Many factors contribute to the decision to file a case. The prosecutor's first concern is the existence of the elements of the crime and sufficient evidence to prove each of them. The credibility of the victim must also be considered. A pre-filing interview with the prosecutor is frequently of great assistance in evaluating this factor. Prosecutors must also ensure that cases are free from technical defects because searches, seizures, the chain of custody of physical evidence, the sufficiency of probable cause for the defendant's arrest, the advisement of rights, etc., will all be closely examined by the defense. Investigators should discuss each of these factors with the prosecutor. They should be prepared to provide their professional opinions regarding whether the case should be filed. These opinions are especially important, particularly if the prosecutor has not had the opportunity to evaluate the effectiveness of the victim as a witness. If the case is accepted for filing, detectives should be willing to (1) undertake any additional investigation that might still be necessary, and (2) comply with the demands of the ensuing judicial proceeding. If the case is not accepted, investigators should make certain that they understand why further prosecution is not possible so that similar difficulties can be avoided on future cases.

11.3 Pre-trial Hearings

In most jurisdictions some type of pre-trial hearing is a necessary part of the prosecution process. In a few areas, cases can be filed directly into a trial court. However, as a general rule, investigators should expect a pre-trial hearing of some type to take place. In a few states the prosecution may choose whether a grand jury proceeding or preliminary hearing will be held. When this option is available, a grand jury proceeding is the preferred type of hearing because witnesses are not subjected to cross-examination. In addition, hearings on a change of venue, the suppression of evidence, pre-trial motions, and other topics might also be held. Investigators are frequently subpenaed to testify at these hearings. When this occurs, investigators should contact the prosecutor handling the case to coordinate the testimony that will be needed.

11.4 Plea Negotiations

Plea negotiations are a normal part of the prosecution process in almost every jurisdiction. These proceedings are sometimes concluded by the involved attorneys without consulting any of the other interested parties. When plea bargains are likely to be offered, investigators should make their views on the advisability of accepting a plea known to the prosecutor. It must be recognized that investigators will be consulted in decision-making only if they express interest, concern, and expertise. In addition, rape victims should always be included in decisions which affect their cases.

11.5 Trial Procedures

Investigators who wish to continue their involvement in the prosecution process should make that fact known to the prosecutor handling their cases. Investigators should remain in contact with prosecutors and make themselves available to assist with trial preparation. Indeed, investigators can often make a significant contribution to the organization of the prosecution's case. On the day of trial, investigators can be of special help. For example, when they bring physical evidence and other displays to court, investigators should arrange the various items so the prosecutor can find them. In most

jurisdictions, the prosecutor may have the investigator (or any one other witness) sit at the counsel table throughout the trial. Depending on court rules, local custom, and the prosecutor's style, investigators can take an active role in the trial. However, as in other phases of the process, unless investigators make their interests known and their assistance available, their potential involvement in the prosecution of their cases will not be fully achieved.

11.6 Summary

Many prosecutors believe investigators have no further interest in cases once they have been presented for filing. Investigators who wish to be involved in the prosecution process must make this fact known to the prosecutors with whom they work. However, in addition to making their interest known, investigators must also prove they can be of genuine assistance. Investigators will not normally be included in the prosecution process unless they are consistently well prepared and available to assist when called upon to do so.

CHAPTER 12. RELATIONSHIPS WITH OUTSIDE ORGANIZATIONS

The successful investigation and prosecution of rape cases requires the cooperation of many organizations besides the police department and the prosecutor's office. The formal policies regulating the tasks performed by the involved organizations are determined by various administrators. However, sex crimes investigators deal with outside organizations on a day-to-day basis. Therefore, investigators must (1) understand the operation of these organizations, (2) attempt to work effectively with representatives of outside groups, and (3) provide input to superiors regarding the possibility of improving cooperation with outside agencies.

12.1 Office of the Prosecuting Attorney

Sex crimes investigators and deputy prosecutors must interact frequently during the course of a rape investigation. Effective cooperation between these groups is important to the successful prosecution of all cases. Good cooperation on rape cases is especially important because of the seriousness and complexity of this offense. Developing good relationships with the prosecutor's office requires an understanding of the problems experienced by both groups as well as some of the potential solutions to these problems.

Common Complaints. Police and prosecutors have voiced many complaints about one another. Many of these criticisms may be endemic to all police-prosecutor relations and not specifically related to rape. Nonetheless, the problems that do exist can constitute a significant impediment to successful prosecution. For example, prosecutors complain that police are sloppy in their investigation of crimes. They point out that police often miss important evidence or improperly seize, mark, or store items that are gathered. Prosecutors further point out that police often fail to locate corroborating witnesses or interview them properly. In the opinion of many trial deputies, investigators cannot be relied upon once a case has been filed.

Many police officers voice a significant amount of criticism about the prosecutors with whom they must work. Some detectives have argued that prosecutors review cases superficially and make filing and plea bargaining decisions without consultation or regard for the quality of the investigation. Officers have complained that prosecutors do not provide adequate guidance, yet at the same time expect the police to file perfect cases. Patrol officers and investigators alike have complained about the condescending attitude displayed by some prosecutors despite the fact that police personnel frequently have more criminal justice experience.

Improving police-prosecutor relations. There are many ways in which the relations between police and prosecutors can be improved. Many problems can be avoided by involving the prosecutors in the early stages of case development. The establishment and use of procedures to provide round-the-clock prosecutorial consultation can intercept many potential legal problems. Formal training sessions taught by prosecutors can be used to explain legal changes, potential defense tactics, and paperwork requirements. Appointing liaisons in each agency or holding regular meetings helps to improve communications so that both groups will feel free to seek advice or possibly provide constructive criticism. In addition, other techniques, like the appointment of police and prosecutor liaisons, have been used to solve the specific problems experienced in various jurisdictions.[1]

Case coordination. Police and prosecutors must recognize that many problems are caused by the scheduling conflicts which often occur. Investigators who work irregular hours often have difficulty reaching prosecutors who must contend with the heavy demands of trial schedules. There is no easy solution to this problem. However, investigators can minimize difficulties caused by missed appointments and cancelled court appearances by checking with the prosecutor's office on the day of any scheduled meeting or court appearance.

12.2 Medical Facilities

The procedures used by medical facilities to treat rape victims are a common source of complaints from sex crimes investigators. The inexperience of medical personnel, reluctance of physicians to become involved in rape cases, rotation of hospital staffs, and the long waiting periods caused by the high level of demand for medical services, all contribute to the difficulties experienced by investigators handling rape cases. The solution to most of these problems fall beyond the purview of sex crimes detectives. However, by paying special attention to certain factors, individual investigators can maximize the cooperation received from medical personnel.

Adherence to Procedures. Special procedures for treating rape victims which include the physical exami-

nation protocol must be established by appropriate police and hospital officials. Once in operation, officers should ensure that procedures are followed by themselves and hospital personnel alike. Neither patrol officers nor medical personnel are likely to be experienced in handling rape victims. Thus it is an important responsibility of the investigator to make certain that all established procedures are promptly carried out. Rape victims must be examined properly in order to establish the element of sexual penetration. Failure to follow established procedures could result in the loss of irreplaceable evidence, or even worse, serious damage to the victim's health.

Waiting periods. The length of time victims must wait before they receive medical treatment is a frequent source of complaint from victims and police personnel alike. If procedures exist which specify rape victims are to receive priority treatment, officers should make every effort to obtain compliance with this policy. Even under the best of circumstances, lengthy waiting periods can be anticipated at least some of the time. Officers can make a significant contribution to the welfare of victims by trying to reduce their emotional distress during waiting periods.

Generally, victims should not be left alone while they are waiting for medical treatment. Even if police personnel are able to wait with them, victims should be asked if they would like to arrange for a friend, relative, or victim services worker to be present. If so, this person should be contacted immediately. If a victim wishes to do so, one device to help pass the time is to request her to write out a complete account of the assault. This statement can be of great use during the follow-up investigation, and it can also help the victim ventilate her emotions. However, it must be emphasized that this technique should only be used in cases involving victims who are emotionally stable and willing to spend this time writing out a statement.

Pre-examination conference. It is desirable for the personnel transporting the victim to the hospital to confer with the examining physician prior to the victim's treatment. Specifically, the doctor should be briefed on the details of the crime including the sites where evidence of sexual penetration should be sought. (If the officers accompanying the victim to the hospital do not have this information, they should ask the physician to obtain it directly from the victim.) During this conference, the officers should also explain to the physician that a thorough examination and detailed report might result in a stipulation from the defense which eliminates the need for a court appearance by the doctor. In addition, officers should remain available in case they are needed for consultation during or after the victim's treatment.

Medical evidence. The procedures established to preserve the chain of custody for items of evidence obtained by medical personnel must be scrupulously followed. Many prosecutions have been substantially damaged by the improper handling of evidence. The investigator must ensure that medical evidence is properly obtained, marked, processed, and stored.

12.3 Victim Services Groups

In recent years, rape crisis lines and other types of victim services groups have opened in many cities.[2] These organizations differ widely from jurisdiction to jurisdiction. Some victim services organizations are sponsored by politically active community groups, while others are operated with public funds as adjuncts of the police department or prosecutor's office. Although the characteristics of these organizations are substantially varied, and their formal relations with police agencies are equally diverse, some aspects of these groups are substantially the same.

Victim support. The main purpose of victim services groups is to provide support for women who have been raped. If the rape victim chooses to become involved with the criminal justice system, the rape crisis workers can assist law enforcement in many ways. In some instances, they can act as fresh-complaint witnesses. More commonly, these personnel become involved during the later stages of rape cases. Under these circumstances, their main function is to provide continuing support to victims. They can have a major role in helping victims overcome the effects of rape trauma syndrome. Victim advocates can also provide more direct assistance. They can act as a communications link between victims and the criminal justice system. Frequently, victim services workers make themselves available to accompany victims to interviews with investigators and prosecutors, and to court appearances. In general, they can be very helpful in encouraging victims to continue cooperating with criminal justice personnel during the prosecution process.

Referral procedures. All victim services groups will refer victims to the police if they wish to report being raped. Similarly, investigators should not hesitate to utilize these groups to provide support and counseling for the victims. Many victim services groups have professional staffs who counsel rape victims or provide special training for volunteer advocates. Investigators should recognize how potentially valuable the assistance provided by these groups can be. Every victim who is not already in contact with a victim services group should be provided with an appropriate referral to use as she sees fit.

Education program. Most victim services groups conduct public education programs. In some communities such programs have had a positive impact on citizens who may ultimately serve as jurors assigned to hear a

rape case. These public education programs are also intended to inform women about how to avoid being victimized. In addition, to promote mutual understanding and improved working relationships, police personnel and victim services group workers frequently provide training sessions for one another. The rape crisis workers assist police in improving their skills in dealing with victims, and investigators instruct victim services volunteers regarding the criminal justice system.

12.4 News Media

Representatives of the various news media, particularly journalists, often have a significant interest in obtaining stories dealing with sex crimes. Especially in smaller jurisdictions where rape cases are "big news", reporters are likely to be most inquisitive about sex offenses. Investigators should be familiar with, and follow, their departmental procedures for dealing with the press. Generally speaking, all information regarding the victim should be kept confidential. However, in some cases, the news media can be of great assistance in generating suspects, especially when a series of similar offenses have been committed.

12.5 Community Groups

Police departments are frequently requested to provide personnel to speak before various community groups. Women's clubs, school groups, neighborhood associations, and other organizations all appreciate having police speak on the topic of personal safety. Accepting such engagements helps achieve the police purpose in several ways. (1) Providing information regarding women's security helps reduce the crime rates. (2) Explaining criminal justice procedures often helps to dispel misapprehensions about the police. (3) Such information encourages victims to report assaults which do occur.(4) The public image of law enforcement is upgraded. (5) A department's overall community relations are usually improved. Whenever possible, investigators should cooperate with efforts made to educate the public regarding the prevention of rape, and the procedures established for handling victims.

12.6 Communications With Superiors

Investigators can help improve relations with outside agencies by keeping their superiors informed about difficulties and recurring problems. Providing this kind of input can also improve both internal and external procedures for handling rape cases. However, the command structure of most police departments requires suggestions to be submitted through channels. Although the use of these channels often consumes a significant amount of time, personnel are nonetheless encouraged to make their suggestions known to their superiors.

12.7 Summary

Establishing procedures for dealing with outside agencies falls outside the responsibility of sex crimes investigators. However, since line personnel must deal with outside agencies on a day-to-day basis, they have an important role in maintaining and improving relations with outside agencies. In particular, the procedures set up to interface the functions of the police with the prosecutor's office, medical facilities, victim services groups, and the community in general, are of special importance. Investigators should not only make every effort to follow procedures which have already been established; they should also provide suggestions and input regarding the improvement of procedures to their superior officers.

NOTES

[1] Battelle Law and Justice Study Center, *Forcible Rape: A National Survey of the Response by Police* (Washington, D.C.: U.S. Government Printing Office, 1977), pp. 40–41.

[2] See National Institute for Law Enforcement and Criminal Justice, *An Exemplary Project: A Community Response to Rape, Polk County Sexual Assault Center, Des Moines, Iowa* (Washington, D.C.: U.S. Government Printing Office, 1976).

CHAPTER 13. SUMMARY AND CONCLUSION

Public interest in the crime of rape has increased dramatically in recent years. Fueled by the women's movement, wide media interest, and public fear regarding the general increase in crime and violence throughout the nation, many communities have exhibited a keen interest in developing programs to improve the treatment given rape victims. However, despite the large number of women who report being raped each year, for the average law enforcement agency a rape case is an unusual event. Although rape is a high priority crime, it is also a low volume offense. Thus the sophisticated response expected, even demanded, by the public is not economically feasible in most jurisdictions. The goal of this manual is to provide information which will be useful to the police officers called upon to investigate rape cases regardless of the size of their departments or the number of offenses they handle per year.

The crime of rape is variously defined in the criminal codes of the different states. However, all of the definitions of this crime contain three common elements which must be proven to convict an individual of rape. In every state, sufficient evidence must be developed to establish beyond a reasonable doubt the elements of (1) sexual penetration, (2) identity of the perpetrator, and (3) lack of victim consent. In conducting an investigation of a rape, it is productive to conceptualize the case in terms of the defense that would most likely be offered by the perpetrator. Doing so directs the activities of the investigator and facilitates the development of sufficient evidence to prove the existence of the elements of the crime.

More so than with any other crime, the investigation of rape cases should center on the victim and her needs. In no other offense is the psychological damage done to the victim so profound and potentially long-lasting. In many ways women who report being raped are victimized first by their assailant and then by the attitudes of society. Social perceptions about rape have caused victims to feel both humiliated and disgraced. Many people believe that women cannot be raped unless they "ask for it." Despite the fact studies have shown that the overwhelming majority of rapes are stranger-to-stranger crimes, this attitude persists. The total effect of being raped manifests itself in many women as the rape trauma syndrome. This is a complex emotional response which must be completely understood by the personnel assigned to investigate rape cases. These detectives must be fully conscious of the social-psychological impact of this crime so that they can improve the quality of their interactions with rape victims and increase the effectiveness of their investigations.

The initial response given to a rape report is critical to the ultimate success of the case. The first police personnel to reach the scene of a rape complaint have an indispensible role in the investigation of the case. Depending on the seriousness of the specific offense, a rape investigator may enter the case immediately, or wait for the crime report to pass through channels. Regardless of whether the investigator enters the case at the time of the initial report, a preliminary investigation must be conducted. The results of this preliminary investigation will determine the course of the remainder of the case.

Interviewing is one of an investigator's most valuable tools. Investigators are called upon to determine the facts of an incident from the perspectives provided by separate observers. The investigator must also obtain official statements from all of the principals in a rape case. In the case of rape victims, this task is particularly difficult. In addition, specific techniques are required when interviewing elderly, adolescent, or child victims. Certain other methods are especially valuable when obtaining information from witnesses and suspects.

The successful prosecution of a rape case is dependent upon the value of the evidence which can be developed to prove the existence of each element of the crime. There are basically two types of evidence. Physical evidence is constituted by the material objects which have a value in proving facts. Testimonial evidence is constituted by the statements of witnesses who can provide information useful in determining the truth. Physical evidence may be obtained from various locations. Once it has been located, it must be properly collected, marked, and stored. To be of value in a prosecution, evidence must be processed by an expert technician. Testimonial evidence can also be obtained from several sources. The use of this type of evidence is often more necessary in rape cases than in other criminal offenses.

To obtain a conviction for rape there are special techniques which can be used to establish the elements of the crime. Sexual penetration can be proven through the use of medical evidence, crime scene evidence, and testimonial evidence. Identity can be established through the use of many techniques to generate suspects and confirm identifications. Lack of victim consent may be established through the use of the victim's statement, medical

evidence, testimonial evidence, and crime scene evidence. In addition to the special methods for proving the elements of the crime, there are also several general techniques for managing investigations, identifying possible suspects, and developing cases for prosecution.

Specific procedures used to prosecute a rape case differ little from those used in other felonies. However, before a case can be presented to the office of the prosecutor, it generally requires some further development. To accomplish this the use of a filing checklist is often most helpful. Once the case has been put into the proper format, it can be presented to the prosecutor's office for a filing decision. The decision to file a case is based on both legal considerations and the strength of the victim as a witness for the prosecution. In most jurisdictions some type of pre-trial hearing must be held. At the actual trial of a rape case, many of the procedures used will depend on how the case was investigated and developed.

The successful prosecution of a rape case requires the concerted efforts of many agencies. Although the development of the formal policies establishing the activities to be performed by various organizations is beyond the purview of sex crimes investigators, detectives must promote good day-to-day working relationships. The high level of interaction between investigators and deputy prosecutors understandably causes some problems which must be solved. Cooperation with medical personnel is also vital to the successful outcome of a rape prosecution. Victim services groups have a role in rape prosecution which can be of great potential value to accomplishing the police purpose. Representatives of the news media, especially journalists, are usually much interested in rape cases and must be dealt with according to departmental procedures. In addition, many community groups request police personnel to make personal appearances to discuss women's security.

Rape investigations are among the most difficult ones undertaken by police personnel. The complexity of this offense and its impact on victims necessitates high levels of specialization on the part of the officers who handle these cases. Although economic constraints prevent the universal adoption of highly sophisticated models to manage rape cases, all investigators can benefit from the lessons learned by highly experienced rape detectives. The purpose of this manual is to facilitate the sharing of those lessons.

☆U.S. GOVERNMENT PRINTING OFFICE : 1978 O—254-098

ASSAULT VICTIM MEDICAL REPORT

Form A
Patient Interview Form

Please type or print all information clearly.
For explanation of each item, see corresponding number in associated protocol.

This report may be completed by any licensed or certified health professional.

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1. **Date of Interview** _____ 2. **Time of Interview** _____

3. **Patient name** _____ (Last) (First) 4. **Medical file no.** _____

5. **Patient birth date** _____ 6. **Patient Sex** _____ 7. **Phone** _____

8. **Patient address** _____ **Zip** _____

Permission for Interview, Examination and Release of Information

Permission is hereby granted to the medical staff of:

9. **Hospital/Clinic/Private Doctor Name** _____

10. **Address** _____

☐ **To perform a medical interview and a physical examination as may be necessary on the person of** _____

☐ **To release the results of this examination and laboratory specimens and clothing to the proper legal authorities.**

11. **Patient signature** _____ 12. **Date** _____

13. **Or Parent/Guardian signature** _____ 14. **Relation** _____

15. **Witness signature** _____ 16. **Date** _____

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16. **Patient's description of assault (Record in patient's words. Include all spontaneous utterances).**

17. **Date of assault** _____ 18. **Time of assault** _____

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19. Note indication of pain in patient's own words:

20. Check pain and symptoms mentioned:

_____ skeletal muscular pain	_____ headache	_____ tenesmus
_____ abdominal pain	_____ bleeding	_____ dysuria
_____ pelvic pain	_____ discharge	_____ other

21. Has there been recent treatment of any disorder?

_____ No _____ Yes Describe _____

22. Has there been any cleansing since the assault?

_____ No _____ Yes Describe _____

23. (Vaginal assault only) LNMP _____

24. (Vaginal assault only) Date of last previous coitus before assault _____

25. Additional remarks:

I understand that the law considers the examining licensed or certified health professional as an eye witness in the body of events surrounding a potential crime. What a patient/victim says to medical staff may be admissable as an exception to the hearsay rule, and these statements may be important in determining the truth before a judge or jury. I agree to preserve these statements as part of this patient's history.

26. Interviewer signature _____

27. Interviewer name _____ 28. Title _____

29. (If known) Termination date of this employment _____

30. Interviewer fluent in English _____ Yes _____ No

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ASSAULT VICTIM MEDICAL REPORT

Form B
Patient Examination Form

Please type or print all information clearly.
For explanation of each item, see corresponding number in associated protocol.
This examination and report may be completed by any licensed or certified health professional.

31. Date of examination _____ 32. Time of Examination _____

33. Patient Name _____ 34. Medical File No. _____
Last First

35. Appearance of patient's clothing: (Check if yes)

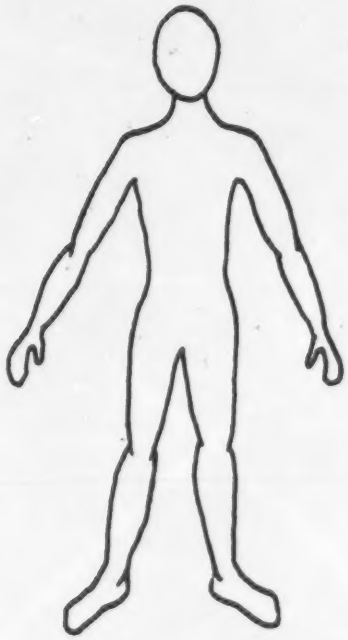
_____ Missing	_____ Soiled or muddy	_____ Leaves, grass embedded
_____ Torn	_____ Damp or wet	_____ Other as described
_____ Soiled	_____ Blood Stains	_____

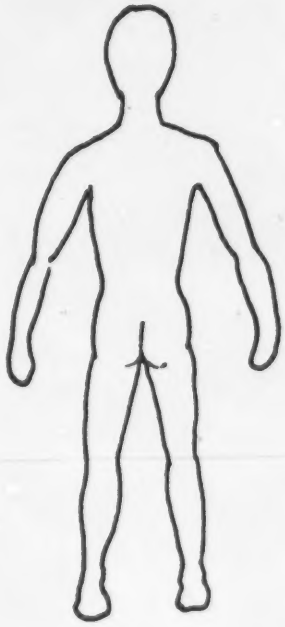
36. Patient changed clothing between assault and arrival at examination?

____ Yes ____ No

37. Itemize clothing placed in containers separately and tagged for evidence:

38. Describe presence of trauma to skin of entire body. Indicate location using chart. Describe exact appearance and size. Indicate possible source such as teeth, cigarette.





39. Itemize photos or X-rays of patient:

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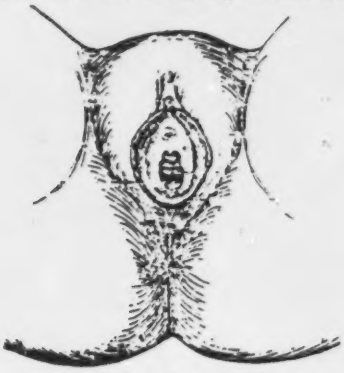
40. Describe external perineal or genito pelvic trauma:



41. Describe internal trauma (Speculum and bimanual examination):

_____ Lacerations present, Describe:

42. Is there discharge? ____ No ____ Yes Describe:

43. Checklist of symptoms of extreme mental trauma:

- ☐ Patient seems extremely quiet, passive, withdrawn, unresponsive - shows little emotion at all.
- ☐ Patient says little or nothing; seems unable to talk.
- ☐ Patient cries loudly and continually in a hysterical fashion.
- ☐ Patient laughs, jokes with those around - incongruously lighthearted.
- ☐ Patient expresses fear that his/her body was broken, permanently damaged or changed in some way.
- ☐ Patient exhibits serious breaks with reality, e.g. sensory, auditory or visual hallucinations.
- ☐ Patient expresses fears of falling apart, going crazy, disappearing.
- ☐ Patient refuses to leave the facility.
- ☐ Patient expresses suicidal ideation.
- ☐ Other_____

_____

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44. Immediate Laboratory Examination of wet mount slide: (List source affected area and check result).

List Source Areas	Sperm Present	Sperm Absent	Sperm Motile	Sperm Nonmotile

45. Signature of Legal Authority receiving this information, clothing and the following specimens: _____

46. ☐ Air-dried cotton swabs - 2 sets from affected area (list body sources)

47. ☐ Dry unstained slides (list body sources)

48. ☐ Fibers from patient's body

49. ☐ Combing from patient's head

50. ☐ Combing from pubic area

51. ☐ 6-8 hair samples pulled from pubis

52. ☐ 12 strands patient's head hair pulled from different regions of head

53. ☐ Saliva sample: cotton cloth in patient's mouth and air dried

54. ☐ 4 drops of patient's blood dried on cotton cloth

I understand that the law considers the examining licensed or certified health professional as an eye witness in the body of events surrounding a potential crime, and that I may be called to testify and be cross-examined about my findings in this examination.

55. Examining health professional signature _____

56. Examining health professional printed name _____

Title _____

57. Supervising physician name, if any _____

58. (If known) Termination date of this employment _____

59. Examiner fluent in English

_____ Yes _____ No

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ASSAULT VICTIM MEDICAL REPORT

Form C
Patient Treatment Record

Please type or print all information clearly.
For explanation of each item, see corresponding number in associated protocol.

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60. Date of treatment _____ 61. Time of treatment _____

62. Patient Name _____ 63. Medical File No. _____
Last First

---

64. Statement of Patient's Rights.

1. You have the right to considerate and respectful care by doctors and nurses.
2. You have the right to privacy and confidentiality for yourself and your medical records.
3. You have the right to full information about treatment.
4. You have the right to refuse or choose treatment offered, and to leave the location of medical service when you wish.
5. You have the right to continued care and timely treatment of your future health problems related to this incident.

Tests given to patient:

65. GC culture ____ Yes ____ No 66. VDRL ____ Yes ____ No

67. Pap smear ____ Yes ____ No 68. Pregnancy test ____ Yes ____ No

69. Other information ____ No ____ Yes Describe:

Treatment given to patient:

70. VD prophylaxis ____ No ____ Yes Describe:

71. Medication given:

72. Medication prescribed:

73. Other treatment given:

Future treatment planned

74. Transfer to another medical facility Name _____

75. Appointment in 6 weeks for repeat GC culture, VDRL, and pregnancy test:

Date _____ Time _____ Place _____

76. Referred for counselling, or introduced for follow-up to:

_____

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